Mr. ROBERT C. BYRD. Mr. President, I have cleared this request with the distinguished managers of the military procurement bill. We have already gotten a time agreement on the Stevens amendment thereto.

I ask unanimous consent that on Monday next, immediately following the disposition of the Eagleton amendment on the XM–1 tank, the Senate proceed to the consideration of the Stevens amendment on housing allowances.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my name be inserted in lieu of the name of the Senator from New Hampshire (Mr. McINTYRE) with respect to the 15-minute order entered for Monday next.

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

THE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Monday is as follows:

The Senate will convene at 10 a.m. The junior Senator from West Virginia will be recognized for not to exceed 15 minutes. Then the distinguished assistant Republican leader will be recognized, following my order, for a period not to extend beyond 10:30 a.m.

At 10:30 a.m., the unfinished business, the military procurement bill, will be resumed, with the Goldwater amendment—dealing with the Air National Guard study—as the pending question. There is a 30-minute time limitation on that amendment and a similar limitation on amendments thereto.

Yea-and-nay votes may occur.

Upon disposition of the Goldwater amendment, action will begin immediately on H.R. 9639, the school lunch bill, under a time limitation of 2 hours, with one-half hour on any amendment.

Yea-and-nay votes very likely will occur.

Upon disposition of the school lunch program, action will resume on the unfinished business, the military procurement bill.

The first amendment to be taken up will be the amendment of the Senator from South Dakota (Mr. McGOVERN), and that is the so-called economic conversion amendment, under a time limitation not to exceed 2 hours.

Upon disposition of the McGovern amendment, the Eagleton amendment on the XM–1 tank will be called up, under a time limitation.

Yea-and-nay votes are expected.

Upon disposition of the Eagleton amendment, the Senate will take up the Stevens amendment dealing with housing allowances, under a time limitation. Other amendments to the military procurement bill will follow on Monday, with yea-and-nay votes expected.

Mr. President, I think that about wraps it up for Monday next.

ADJOURNMENT TO 10 A.M. ON MONDAY, SEPTEMBER 24

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 10 a.m. on Monday next.

The motion was agreed to; and, at 2:04 p.m., the Senate adjourned until Monday, September 24, 1973, at 10 a.m.

SENATE—*Monday, September 24, 1973*

The Senate met at 10 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O God, our help in ages past, our hope for years to come, be with us each step of our pilgrimage lest we falter and fail in doing Thy will. Teach us anew the lesson that a "nation under God" is a nation under Thy judgment as well as Thy providence. Grant us grace to repent of our sins and to turn from all the little evils which corrupt life and corrode the spirit. Make us supreme in compassion, mercy, and love, in fellowship with our fellow citizens and in brotherhood with all mankind—a mighty bastion of spiritual strength and moral power. Bring us more and more into oneness with Thyself and obedience to Thy laws, that we may have peace within our hearts; and that Thou, O Lord, mayest work through us to give peace to the world.

We pray in the name of the Lord, the Prince of Peace. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, September 22, 1973, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rule VII, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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. 377, 381, and 382.

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

AMENDMENT OF WILD AND SCENIC RIVERS ACT

The Senate proceeded to consider the bill (S. 921) to amend the Wild and Scenic Rivers Act, which had been reported from the Committee on Interior and Insular Affairs with an amendment, on page 1, after line 8, insert:

(c) In section 6(a) strike the comma after "donation" and insert in lieu thereof "or exchange,".

(d)(1) In section 4 strike subsection (a) and insert in lieu thereof the following:

"SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the National Wild and Scenic Rivers System of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act within three complete fiscal years after the date of enactment of this amendment: *Provided, however,* That with respect to the Suwannee River, Georgia and Florida, and the Upper Iowa River, Iowa, such study shall be completed and reports made thereon to the Congress prior to October 2, 1970. With respect to any river designated for potential addition to the National Wild and Scenic Rivers System by Act of Congress subsequent to this Act, the study of such river shall be completed and reports made thereon by the President to the Congress within three complete fiscal years from the date of enactment of such Act. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of development which, if undertaken, would render the rivers unsuitable for inclusion in the National Wild and Scenic Rivers System. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

"Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of landownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the National Wild and Scenic Rivers System; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report

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shall be printed as a Senate or House document."

(2) In section 5 strike subsection (b); and reletter subsections (c) and (d) as (b) and (c), respectively.

(3) In section 7(b)(i) strike all after "Act" and insert in lieu thereof "or the three complete fiscal year period following any Act of Congress designating any river for potential addition to the National Wild and Scenic Rivers System, whichever is later, and"

(4) In section 7(b)(ii) strike "which is recommended", insert in lieu thereof "the report for which is submitted", and strike "for inclusion in the National Wild and Scenic Rivers System".

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 the Wild and Scenic Rivers Act (82 Stat. 906) is amended as follows:

(a) In section 7(b)(i) delete "five-year" and substitute "ten-year".

(b) In section 16 deleted "$17,000,000" and substitute "$37,600,000".

(c) In section 6(a) strike the comma after "donation" and insert in lieu thereof "or exchange,".

(d)(1) In section 4 strike subsection (a) and insert in lieu thereof the following:

"SEC. 4. (a) The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the National Wild and Scenic Rivers System of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this Act. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in subparagraphs 5(a) (1) through (27) of this Act within three complete fiscal years after the date of enactment of this amendment: *Provided, however,* That with respect to the Suwannee River, Georgia and Florida, and the Upper Iowa River, Iowa, such study shall be completed and reports made thereon to the Congress prior to October 2, 1970. With respect to any river designated for potential addition to the National Wild and Scenic Rivers System by Act of Congress subsequent to this Act, the study of such river shall be completed and reports made thereon by the President to the Congress within three complete fiscal years from the date of enactment of such Act. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the National Wild and Scenic Rivers System. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act (79 Stat. 244; 42 U.S.C. 1962 et seq.).

"Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the National Wild and Scenic River System; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document."

(2) In section 5 strike subsection (b); and reletter subsections (c) and (d) as (b) and (c), respectively.

(3) In section 7(b)(i) strike all after "Act" and insert in lieu thereof "or the three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic river system, whichever is later, and"

(4) In section 7(b)(ii) strike "which is recommended", insert in lieu thereof "the report for which is submitted", and strike "for inclusion in the national wild and scenic rivers system".

The amendment was agreed to.

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

OIL POLLUTION ACT AMENDMENT

The bill (H.R. 5451) to amend the Oil Pollution Act, 1961 (75 Stat. 402), as amended, to implement the 1969 and 1971 amendments to the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954, as amended, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

GRAND CANYON NATIONAL PARK ENLARGEMENT ACT

The Senate proceeded to consider the bill (S. 1296) to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes, 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:

SHORT TITLE

Section 1. This Act may be cited as the "Grand Canyon National Park Enlargement Act".

DECLARATION OF POLICY

SEC. 2. It is the object of this Act to provide for the recognition by Congress that the entire Grand Canyon, from Navajo Bridge to the Grand Wash Cliffs, including tributary side canyons and surrounding plateaus, is a natural feature of national and international significance. Congress therefore recognizes the need for, and in this Act provides for, the further protection and interpretation of the Grand Canyon in accordance with its true significance.

ENLARGEMENT OF GRAND CANYON NATIONAL PARK BOUNDARIES

SEC. 3. (a) In order to add to the Grand Canyon National Park certain prime portions of the canyon area possessing unique natural, scientific, and scenic values, the Grand Canyon National Park shall comprise, subject to any valid existing rights under the Navajo Boundary Act of 1934, all those lands, waters, and interests therein, constituting approximately one million two hundred and sixty-eight thousand seven hundred and thirty-nine acres, located within the boundaries as depicted on the drawing entitled "Boundary Map, Grand Canyon National Park," numbered 113–91,005 and dated June 1973, a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) For purposes of this Act, the Grand Canyon National Monument and the Marble Canyon National Monument are abolished.

(c) The Secretary of the Interior shall study the lands within the former boundaries of the Grand Canyon National Monument commonly known as the Tuckup Point, Slide Mountain, and Jensen Tank areas to determine whether any portion of these lands might be unsuitable for park purposes and whether in his judgment the public interest might be better served if they were deleted from the Grand Canyon National Park. The Secretary shall report his findings and recommendations to the Congress no later than one year from the date of enactment of this Act.

ACQUISITION OF LANDS BY DONATION OR EXCHANGE

SEC. 4. (a) Within the boundaries of the Grand Canyon National Park, as enlarged by this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire land and interest in land by donation, purchase with donated or appropriated funds, or exchange.

(b) Federal lands within the boundaries of such park are hereby transferred to the jurisdiction of the Secretary for the purposes of this Act.

PROHIBITION AGAINST TAKING OF STATE OR INDIAN LANDS

SEC. 5. Notwithstanding any other provision of this Act (1) land or interest in land owned by the State of Arizona or any political subdivision thereof may be acquired by the Secretary under this Act only by donation and (2) no land or interest in land, which is held in trust for any Indian tribe or nation, may be transferred to the United States under this Act or for purposes of this Act except after approval by the governing body of the respective Indian tribe or nation.

COOPERATIVE AGREEMENTS FOR UNIFIED INTERPRETATION OF GRAND CANYON

SEC. 6. In the administration of the Grand Canyon National Park, as enlarged by this Act, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies and with interested Indian tribes providing for the protection and interpretation of the Grand Canyon in its entirety. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretative facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof, to the end that there will be a unified interpretation of the entire Grand Canyon.

PRESERVATION OF EXISTING GRAZING RIGHTS

SEC. 7. Where any Federal lands within the Grand Canyon National Park, as enlarged by this Act, are legally occupied or utilized on the effective date of this Act for grazing purposes, pursuant to a Federal lease, permit, or license, the Secretary shall permit the persons holding such grazing privileges to continue in the exercise thereof during the term of the lease, permit, or license, and periods of renewal thereafter: *Provided,* That no such renewals shall be extended beyond the period ending ten years from the date of enactment of this Act, except that any present lease, permit, or license within the boundaries of the Grand Canyon National Monument as abolished by subsection 3(b) of this Act may be renewed during the life of the present holder. Nothing in this section shall be construed to affect or modify the provisions of section 3 of the Act of February 26, 1919 (40 Stat. 1177).

AIRCRAFT REGULATION

SEC. 8. Whenever the Secretary has reason to believe that any aircraft or helicopter activity or operation may be occurring or about to occur within the Grand Canyon National Park, as enlarged by this Act, including the airspace below the rims of the canyon, which is likely to cause an injury to the health, welfare, or safety of visitors to the park or to cause a significant adverse effect on the natural quiet and experience of the park, the Secretary shall submit to the Federal Aviation Agency, the Environmental Protection Agency pursuant to the Noise Control Act of 1972, or any other responsible agency or agencies such complaints, information, or recommendations for rules and regulations or other actions as he believes appropriate to protect the public health, welfare, and safety or the natural environment within the park. After reviewing the submission of the Secretary, the responsible agency shall consider the matter, and after consultation with the Secretary, shall take appropriate action to protect the park and visitors.

PRESERVATION OF EXISTING RECLAMATION PROVISIONS

SEC. 9. (a) Nothing in this Act shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of sections 601 to 606 of the Colorado River Basin Project Act, approved September 30, 1968 (82 Stat. 885, 901).

(b) Section 7 of the Act of February 26, 1919 (40 Stat. 1175, 1178), is amended to read as follows:

"Whenever consistent with the primary purposes of such park, the Secretary of the Interior is authorized to permit the utilization of those areas formerly within the Lake Mead National Recreation Area immediately prior to enactment of the Grand Canyon National Park Enlargement Act, and added to the park by such Act, which may be necessary for the development and maintenance of a Government reclamation project."

HAVASUPAI INDIAN RESERVATION

SEC. 10. In recognition of the desire of the Havasupai Tribe of Indians to acquire a greater land base and improved opportunities to sustain its own social and economic life, and with a purpose of assisting the Havasupai people in implementing these goals, the Congress directs that the Secretary and the Secretary of Agriculture jointly shall, within one year of the date of enactment of this Act, conduct a comprehensive study and make detailed recommendations to the Congress and the President concerning proposals for expansion of the Havasupai Reservation. Such study shall (a) be conducted in close consultation with the Tribal Council of the Havasupai Tribe, (b) include recommendations concerning the development of any economic or tourist projects which should accompany the enlargement of the Havasupai Reservation, and (c) include both an evaluation of proposals for the transfer of Federal lands to the reservation and a determination of the feasibility and cost of acquiring any private lands which the tribe may wish to include within the enlarged reservation.

AUTHORIZATION OF APPROPRIATIONS

SEC. 11. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $1,250,000, in the aggregate for the period of the five fiscal years beginning with the fiscal year ending June 30, 1974, for the acquisition of lands and property, and not to exceed $49,000 for the fiscal year ending June 30, 1974, $255,000 for the fiscal year ending June 30, 1975, $265,000 for the fiscal year ending June 30, 1976, and $235,000 for the fiscal year ending June 30, 1977, for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the date of enactment of this Act.

Mr. GOLDWATER. Mr. President, I am delighted that the Senate is about to act today on passage of legislation which will significantly improve the protection provided by law for the Grand Canyon of Arizona. Passage of this bill will be a great victory for all of those who, with me, admire the Grand Canyon as the greatest natural wonder on the face of the earth.

The bill will bring together within one park some 273 miles of the canyon which are to be managed as a single, natural area by the National Park Service. It combines almost 1.3 million acres to put all of the Grand Canyon below the rim into one park along with surrounding plateaus and principal side canyons from Navajo Bridge downstream to the Grand Wash Cliffs. This will almost double the size of the Grand Canyon National Park and the number of acres in the canyon receiving Park protection.

Mr. President, the bill has 27 cosponsors and I deeply appreciate their assistance in helping to move the proposal along. In particular, I want to thank my colleague from Arizona (Mr. FANNIN) for joining with me in the introduction of the bill and for his aid in guidng the measure through the Senate committee. Also, I am grateful to the senior Senator from Nevada (Mr. BIBLE) for providing early hearings on the bill by his Subcommittee on Parks and Recreation and for his great help in steering the bill successfully out of committee and onto the Senate floor.

Mr. President, there have been changes made in the bill but this is normal after hearings and I am pleased that the essence of the legislation, which is to give greater protection to the Grand Canyon, remains intact. There are questions relating to some lands included within the enlarged park which the bill defers for study in the near future, including the restoration of certain lands to the Havasupai Indian Reservation and the suitability of some areas for intense wildlife management, but the central object of this bill and of this park is the Grand Canyon and it is the canyon which remains at the forefront of the amended bill. Looking down the road 30 or 50 years or so in the future, I think this bill is crucial to guaranteeing that the canyon will remain what it is today as one of God's last few, practically untouched masterpieces.

Mr. CASE. Mr. President, the effort to preserve the Grand Canyon in all its natural and unique beauty goes back many years. Indeed it was in 1903 that President Theodore Roosevelt urged that it be left as it is. Since then portions of the canyon have been set aside in a National Grand Canyon Park and two national monuments. Together, however, they include less than half of the canyon.

In my view all of the canyon, with the exception of the Indian reservations, should be included in the National Park and I introduced a bill to so provide. The Interior Committee has now reported out S. 1296 introduced by Senator GOLDWATER. I am glad to note that in the course of committee consideration the Senator from Arizona amended his bill to expand the boundaries of the park beyond those he originally proposed. While I continue to believe the canyon should be afforded the more comprehensive protection contained in my own bill, the pending measure is a step forward in the preservation of an irreplaceable scenic and recreational resource and I shall vote for it.

The amendment was agreed to.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Senator from Pennsylvania desire to be recognized at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is now recognized for not to exceed 15 minutes.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order just stated be vacated and that there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

Is there further morning business?

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. METCALF) laid before the Senate the following letters, which were referred as indicated:

CONTRACT AWARD DATES

A letter from the Assistant Secretary of Defense transmitting, pursuant to law, a listing of contract award dates for the period September 15–December 15, 1973 (with accompanying papers). Referred to the Committee on Armed Services.

INTERNATIONAL AGREEMENTS OTHER THAN TREATIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, ten international agreements other than treaties (with accompanying papers). Referred to the Committee on Foreign Relations.

USE OF FOREIGN MILITARY SALES CREDIT FUNDS

A letter from the Assistant Secretary of State for Congressional Relations giving notice, pursuant to law, of the intent to finance with foreign military sales credit funds the procurement of components for the construction in Korea of a patrol ship. Referred to the Committee on Foreign Relations.

PROPOSED LEGISLATION BY THE DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce transmitting a draft of proposed legislation

to carry into effect certain provsions of the Patent Cooperation Treaty, and for other purposes (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF THE EMERGENCY LOAN GUARANTEE BOARD

A letter from the Secretary of the Treasury transmitting, pursuant to law, the annual report of the Emergency Loan Guarantee Board covering the period August 1, 1972 through July 31, 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY THE SMALL BUSINESS ADMINISTRATION

A letter from the Administrator of Small Business transmitting a draft of proposed legislation to increase the limitations on the amounts which may be outstanding at any one time from the business loan and investment fund (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION OF THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior transmitting a draft of proposed legislation to amend the National Visitor Center Facilities Act of 1968, as amended, to facilitate the construction of an intercity bus terminal, and for other purposes (with accompanying papers). Referred to the Committee on Public Works.

FINAL DETERMINATION OF CERTAIN INDIAN CLAIMS

A letter from the Chairman of the Indian Claims Commission transmitting, pursuant to law, its reports on the final determinations of certain Indian claims (with accompanying reports). Referred to the Committee on Appropriations.

REPORTS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Acting Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, reports concerning visa petitions which have been approved (with accompanynig papers). Referred to the Committee on the Judiciary.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. METCALF):

A joint memorial adopted by the Legislature of the State of Oregon. Referred to the Committee on Agriculture and Forestry:

"ENROLLED SENATE JOINT MEMORIAL 8

"To the Honorable President of the United States, the Honorable Senate and House of Representatives of the United States of America, in Congress assembled, and the United States Department of Agriculture:

"We, your memorialists, the Fifty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

"Whereas Oregon is the leading filbert producing area in the United States, producing some 95 percent of all filberts produced in the United States; and

"Whereas future growth and stability of the Oregon filbert industry is dependent upon quality of the product reaching the domestic market; and

"Whereas no quality standards have been established on filberts imported into the United States from foreign producers; and

"Whereas House Resolution 2933 introduced into the House of Representatives, 93rd Session of Congress would amend section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 by including filberts; and

"Whereas passage of House Resolution 2933 would establish quality standards for filberts shipped into the United States; and

"Whereas the consumer is entitled to the same protection on filberts imported into the United States as provided by domestc producers; now, therefore,

"Be It Resolved by the Legislative Assembly of the State of Oregon: That the Oregon Legislature urge all possible federal assistance to assure passage of House Resolution 2933; and be it further

"Resolved, That copies of this memorial be delivered to members of the Oregon Congressional Delegation and, if possible, personally delivered by them to the Secretary of Agriculture, to the leadership of the United States House of Representatives and the Senate and to the leaders of their respective caucuses."

A joint memorial adopted by the Legislature of the State of Oregon. Referred to the Committee on Banking, and Housing, and Urban Affairs:

"Enrolled Senate Joint Memorial 15

"To the Honorable President of the United States, the Oregon Congressional Delegation, the Honorable Senate and House of Representatives of the United States of America in Congress assembled, the United States Secretary of the Treasury and the Office of Oil and Gas, Department of the Interior:

"We, your memorialists, the Fifty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

"Whereas the independent petroleum jobbers contribute extensively to the economy of Oregon; and

"Whereas the competitive sale of petroleum products in Oregon is of benefit to the consumer and local economies; and

"Whereas we are dependent upon major petroleum suppliers' production to meet our market demand for these products; and

"Whereas until May 21, 1973 there had been no establishment of priorities of use, or for systematic allocation of supplies of petroleum products in order to meet the essential needs of various sections of the nation or to prevent anticompetitive effects resulting from shortages of such products; and

"Whereas several suppliers have unilaterally withdrawn from markets without making necessary arrangements to meet consumer demand; and

"Whereas other suppliers now seek to modify existing distributor contracts under the threat of ultimate supply withdrawal; and

"Whereas withdrawal of competitory elements in petroleum distribution will lead to a lessening of competition; now, therefore

"Be It Resolved by the Legislative Assembly of the State of Oregon: That the Federal Government is memorialized to:

"(1) Urge refiners to be fair and nondiscriminating in allocation of scarce products;

"(2) Urge refiners to provide adequate lead time so its customers can properly adjust to changes in corporate policy, in view of long-term commitments made in jobber-supplier mutual interest;

"(3) Urge refiners to use resourcefulness in constructing additional refinery capacity, and by other means to increase product availability;

"(4) Emphasize to refiners that industry public relations problems will increase geometrically as the number of competing elements in the market decreases;

"(5) Establish a monitoring and reporting system dealing with product shortage, contract terminations and product shortfall to show distributors, government and others, trends emerging in the marketplace; and

"(6) Continue the voluntary allocation policies enabled by the Economic Stabilization Act of 1970 as amended unless mandatory allocation on a selective or group basis is necessary to protect the consumer interest or a class of trade; and be it further

"Resolved, That copies of this memorial be delivered to members of the Oregon Congressional Delegation and, if possible, personally delivered by them to the Secretary of the Treasury, to the Office of Oil and Gas, to the leadership of the United States House of Representatives and the Senate, to the leaders of their respective caucuses and to the individual members of the Congress."

A joint resolution passed by the Legislature of the State of Oregon. Referred to the Committee on the Judiciary:

"ENROLLED SENATE JOINT RESOLUTION 4

"Whereas the Ninety-second Congress of the United States of America, at its second session begun and held at the City of Washington on January 18, 1972, by a constitutional majority of two-thirds vote in both houses adopted a Joint Resolution proposing an amendment to the Constitution of the United States, as follows:

"'ARTICLE —

"'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'; and

"Whereas the proposed amendment shall be valid to all intents and purposes as part of the Constitution of the United States when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress; now, therefore,

"Be it Resolved by the Legislative Assembly of the State of Oregon:

"(1) The proposed amendment to the Constitution of the United States relating to equal rights for men and women, as set forth in this resolution, hereby is ratified.

"(2) The Secretary of State shall send certified copies of this resolution to the Administrator of General Services of the United States, to the presiding officer of the United States Senate and to the Speaker of the House of Representatives of the United States."

Two joint memorials adopted by the Legislature of the State of Oregon. Referred to the Committee on Labor and Public Welfare:

"ENROLLED SENATE JOINT MEMORIAL 10

"To the Honorable Senate and House of Representatives of the United States of America, in Congress assembled:

"We, your memorialists, the Fifty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

"Whereas the promotion of quality education is of great concern to the people of the State of Oregon; and

"Whereas federal moneys from Title III of the Elementary and Secondary Education Act have assisted in the research and development of innovative educational systems in this and other states; and

"Whereas many students who are now benefiting from programs which seek to improve the quality of instruction in public schools may be deprived of these benefits if federal funds are withdrawn; and

"Whereas many programs in Oregon which are assisted by the moneys allocated under Title III are currently in the developmental and validation stages; and

"Whereas continuity of these programs is crucial for the establishment of improved educational systems for all public school children; now, therefore,

"Be it resolved by the legislative assembly of the State of Oregon:

"(1) The Congress of the United States is memorialized to consider the impact of the loss of federal funds for the improvement of educational systems in the State of Oregon and in other states.

"(2) The Legislative Assembly further urges the Congress to appropriate funds to the states, earmarked for the support of creative teaching and development of innovative educational systems which seek to improve the quality of instruction in public schools, in an amount equal to that appropriated for the fiscal year 1972–1973.

"(3) A copy of this memorial shall be transmitted to the presiding officers of each house of Congress and to each member of the Oregon Congressional Delegation."

"ENROLLED SENATE JOINT MEMORIAL 11

"To the Honorable Senate and House of Representatives of the United States of America, in Congress assembled, and to the Honorable Secretary of the Department of Labor:

"We, your memorialists, the Fifty-seventh Legislative Assembly of the State of Oregon, in legislative session assembled, most respectfully represent as follows:

"Whereas the Job Corps Center at Tongue Point is the only regional training center for women in the Northwest; and

"Whereas the Job Corps Center at Tongue Point maintains an enrollment of 735 corpswomen, 235 employees, an annual payroll of approximately $2 million and an annual budget of approximately $3.9 million; and

"Whereas there has been a reduction in the national budget for regional Job Corps Centers; and

"Whereas there is a need for the continuation of the present level of services and programs provided by the Tongue Point Center; and

"Whereas a reduction or phasing out of any services or programs would seriously impede manpower training and development in the Northwest; now, therefore,

"Be it resolved by the legislative assembly of the State of Oregon:

"(1) The Congress of the United States and the Secretary of the Department of Labor are memorialized to continue the programs and services provided to women by the Tongue Point Job Corps Center at their present level and at their present location.

"(2) A copy of this memorial shall be transmitted to the presiding officers of both houses of the Congress, to the Secretary of the Department of Labor and to each member of the Oregon Congressional Delegation.

Three resolutions adopted by the United American Mechanics, State Council of Tennessee; two of which in commendation of President Nixon which were ordered to lie on the table, and one condemning draft-dodging by any United States citizens, which was referred to the Committee on the Judiciary.

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. HUGHES:

S. 2472. A bill for the relief of Col. Paul M. Thompson, U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2473. A bill for the relief of Mr. Sudesh Kumar Chhabra. Referred to the Committee on the Judiciary.

By Mr. WILLIAMS (for himself, Mr. BROOKE, and Mr. BIDEN):

S. 2474. A bill to amend the Securities Exchange Act of 1934 to provide for the establishment of a mechanism of regulation among brokers, dealers, and banks trading in municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. McGOVERN:

S. 2475. A bill for the relief of Norma Lazo. Referred to the Committee on the Judiciary.

By Mr. BENNETT:

S. 2476. A bill for the relief of Capt. Deloy F. Johnson, U.S. Air Force. Referred to the Committee on the Judiciary.

By Mr. LONG (for himself and Mr. JOHNSTON):

S. 2477. A bill to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University. Referred to the Committee on Agriculture and Forestry.

By Mr. BENTSEN:

S. 2478. A bill to amend the Higher Education Act of 1965 to remove the needs provision for families with income with less than $15,000 a year from the student loan subsidy provision of that act. Referred to the Committee on Labor and Public Welfare.

By Mr. RANDOLPH:

S. 2479. A bill to promote the conservation of energy in the design of new federally owned and federally assisted facilities. Referred to the Committee on Public Works.

By Mr. COOK:

S. 2480. A bill to amend the Economic Stabilization Act of 1970 relative to petroleum products. Referred to the Committee on Banking, Housing and Urban Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WILLIAMS (for himself, Mr. BROOKE, and Mr. BIDEN):

S. 2474. A bill to amend the Securities Exchange Act of 1934 to provide for the establishment of a mechanism of regulation among brokers, dealers and banks trading in municipal securities, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

THE MUNICIPAL SECURITIES ACT OF 1973

Mr. WILLIAMS. Mr. President, trading in municipal securities—the debt obligations of States and local governments—is at present unregulated at the Federal level. Apart from general antifraud provisions, all of the Federal securities laws exempt municipal securities from their substantive requirements. This means that State and local government bonds do not comply with the registration and disclosure requirements of the Securities Act of 1933 when they are sold, nor do the persons who distribute and make markets in such bonds register with the Securities and Exchange Commission as broker-dealers.

There are practical and historical reasons for the hands-off treatment of trading in municipal securities. Of late, however, there has been a growing recognition among both Federal regulatory authorities and forward-looking members of the municipal bond industry that Federal regulation is now called for.

Last year State and local governments issued approximately $25 billion worth of long-term bonds. Most of this debt was sold to institutional investors. However, individual investors appear to have purchased nearly one-third of these bonds, and as interest rates rise individuals are increasingly attracted to this market. For example, in 1972, individuals held over $50 billion worth of State and local government debt, an increase of nearly $20 billion over 10 years earlier.

The growth of the municipal securities market has brought with it new distribution practices and greater interest on the part of municipal securities dealers in merchandising municipal bonds to individuals.

In the absence of Federal regulation and an effective nationwide enforcement mechanism, unethical sales practices appear to be proliferating and improper and downright illegal operations appear to be increasingly common.

What has come to be known as the "Memphis dealer problem" is now a national problem. High pressure sales techniques, excessive mark-ups and fraudulent sales practices have reached a point where they are a major concern to the Securities and Exchange Commission, State securities regulators, and the vast majority of municipal securities dealers.

Recent fraud cases involving municipal securities dealers in Tennessee and Texas, and in my own State of New Jersey have made it clear that the municipal securities market is no longer a predominantly institutional market entitled to general exemption from the pattern of Federal securities regulation. This market is heavily dependent on individual investors and as such belongs under the Securities and Exchange Commission's broad regulatory umbrella.

To this end, I am today introducing on behalf of myself and Senators BROOKE and BIDEN the Municipal Securities Act of 1973. This bill addresses itself to the need for uniform regulation of the activities and practices of the professional traders and underwriters who deal in and distribute municipal securities. It does not affect the exemption of State and local governments from the Securities Act of 1933, for there has been no evidence of abuse in this area. Rather, this bill removes the existing exemptions in the Securities Exchange Act of 1934 for broker-dealers which deal exclusively in municipal securities and for banks which deal in such securities.

Thus, broker-dealers trading exclusively in municipals will for the first time be required to register with the SEC. Similarly, the municipal bond division or department of bank carrying on a municipal securities business will also be required to register with the SEC, although not as a broker-dealer but as a new category of "municipal securities dealer."

By virtue of these registration requirements, all persons performing a professional trading function with respect to municipal securities will be registered with the Securities and Exchange Commission, and as such will be subject to SEC inspection and regulation.

In addition to direct SEC regulatory power, the public has a right to expect that the municipal securities industry will have, and the industry has a legitimate interest in obtaining for itself, a code of practice establishing proper standards for business conduct and ethical goals designed to strengthen professionalism and adherence to fair dealing.

Such a code of practice—a coherent and informed set of rules defining just and equitable principles of trade with respect to municipal securities—should, if possible, be drawn by the industry itself, both because that would be most efficient and because that is the most expert source of information as to just how

this market works. Accordingly, the bill I and my colleagues are introducing sets up a mechanism for establishing a new self-regulatory agency, the National Association of Municipal Securities Dealers—NAMSD—which will have the power to prescribe the rules of conduct and practice for its members.

The bill does not mandate the establishment of such a new self-regulatory association, and it vests in the SEC direct rulemaking authority with respect to just and equitable principles of trade over all municipal securities dealers should such an organization not be established.

However, it is my expectation that such an organization will be formed, that its membership will embrace the vast majority of municipal securities dealers, and that it will promulgate rules and standards for the trading of municipal securities which will assure the protection of public investors and provide the impetus for a general raising of the standards of the industry.

The Municipal Securities Act provides that if a new municipal securities dealer's association is formed, it will have full self-regulatory powers with respect to such matters as membership standards, selling practices, and settlement procedures, and that it will have the authority to inspect members' operations and impose discipilinary sanctions to enforce its rules. The exercise of these self-regulatory powers will be subject to SEC control and review.

The rules of an association of municipal securities dealers must be approved by the SEC, and its disciplinary actions will be subject to review by the SEC. In addition, the SEC will have the power, should it find it necessary, to force such an association to change its rules to bring them into line with the Commission's view of what is necessary for the protection of the investors and the public interest.

Because many broker-dealers trading in municipal securities are already members of the NASD, the bill expands the NASD's power to encompass the regulation of activities related to municipal securities. Thus, it will not be necessary for any present NASD member to join another self-regulatory organization. Although the bill would permit both a new national association of municipal securities dealers and the NASD to exercise rulemaking power in the municipal securities area, I anticipate that the municipal securities dealers association will be the primary rulemaking body and that, by virtue of SEC oversight, the rules of the two self-regulatory organizations will be identical.

Banks have traditionally been exempted from the regulatory requirements of the Securities Exchange Act of 1934. If we are to establish a uniform Federal regulatory scheme for trading in municipal securities, however, this general exemption must be ended and securities-type regulations imposed to the extent appropriate. Where banks perform the same functions with respect to municipal securities as do registered broker-dealers, there is no regulatory justification for treating the two types of organizations differently.

This bill I am introducing recognizes the appropriateness of comparable regulation of banks and broker-dealers where there is a similarity of function. The bill also carefully limits, however, the reach of SEC regulation over banks to their municipal bond divisions or departments.

Despite basic similarities, the organization, structure, and interest of the banks involved in the trading of municipal securities are often different from those of securities dealers. Accordingly, the bill provides that a self-regulatory association of municipal securities dealers must provide equal representation on its governing board for members which are banks and members which are securities dealers. In addition, such a board must also contain representatives from the public.

The participation of banks in the municipal securities area, raises important questions as to the appropriate role to be played by the bank regulatory agencies in overseeing these activities and enforcing applicable rules with respect to them. This bill adopts the approach of giving the SEC general oversight authority with respect to rules, inspections, enforcement and review of self-regulatory disciplinary actions. In connection with these functions, however, the SEC is required to consult and cooperate with the Federal bank agencies toward the end that rules and sanctions applicable to banks are in accord with sound banking practices to the maximum extent consistent with the protection of investors and the public interest.

I believe that the Municipal Securities Act of 1973 will be a major step in the evolution of our Federal securities laws. It is a complex bill with a large number of implications for the securities and banking industries and for their customers—both investors and State and local governments. I recognize that there will be diverse views as to the proper way to regulate the trading in municipal securities. I believe this bill provides a reasonable and workable regulatory framework. I will, however, remain open-minded with respect to alternative approaches, and I earnestly solicit industry groups and individual dealers in municipal securities to offer constructive suggestions, changes, and alternatives.

I am convinced that with the cooperation and suggestions of the banks, the securities firms, and the regulatory agencies, it will be possible to work out the most effective and constructive regulatory approach for the municipal securities area. I believe it is important this be done promptly, and to this end I will schedule hearings of the Subcommittee on Securities in the near future.

Mr. President, I now ask unanimous consent that the full text of this legislation be printed in the RECORD.

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

S. 2474

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 Municipal Securities Act of 1973."

SECTION 1. Section 3(a)(12) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12) is amended as follows:

"(12) The term 'exempted security' or 'exempted securities' includes securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; municipal securities, as defined in section 3(a)(22) of this title, *provided,* however, that municipal securities shall not be deemed to be 'exempted securities' for the purposes of sections 15 and 15A of this title; any interest or participation in any common trust fund or similar fund maintained by a bank exclusively for the collective investment and reinvestment of assets contributed thereto by such bank in its capacity as trustees, executor, administrator, or guardian; any interest or participation in a collective trust fund maintained by a bank or in a separate account maintained by an insurance company which interest or participation is issued in connection with (A) a stock-bonus, pension, or profit-sharing plan which meets the requirements for qualification under section 401 of the Internal Revenue Code of 1954, or (B) an annuity plan which meets the requirements for the deduction of the employer's contribution under Section 404(a)(2) of such Code, other than any plan described in clause (A) or (B) of this paragraph which covers employees some or all of whom are employees within the meaning of section 401(c)(1) of such Code; and such other securities (which may include, among others, unregistered securities the market in which is predominantly interstate) as the Commission may, by such rules and regulations as it deems necessary or apppropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities.'"

SEC. 2. Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)), is amended by adding at the end thereof the following new subsections:

"(22) The term 'municipal securities' means securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States; or any security which is an industrial development bond (as defined in Section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income under Section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of Section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such Section 103(c)), paragraph (1) of such 103(c) does not apply to such security.

"(23) The term 'municpial securities dealer' means any person engaged in the business of buying and selling municipal securities for his own account, through a broker or otherwise, but does not include:

(A) any person insofar as he buys or sells such securities for his own account, either individually or in some fiduciary capacity, but not as part of a regular business; or

(B) a bank, unless the bank is engaged in the business of buying and selling municipal securities for its own account other than in a fiduciary capacity, through a broker or otherwise; *provided, however,* that if such activities are conducted by the bank through a separately identifiable department or division which is registered in accordance with section 15B(a) of this title as a 'municipal securities dealer' the bank itself shall not be deemed to be a municipal securities dealer.

"(24) The term 'person associated with a municipal securities dealer' when used with respect to a municipal securities dealer which is a bank or a division or department of a bank means any person actively engaged in the management, direction or supervision of such municipal securities dealer's activities with respect to municipal securities, and any person directly or indirectly controlling or controlled by such municipal securities dealer, including any employee of such dealer. The Commission may by rules and regulations classify, for the purpose of any portion of this title, persons, including employees, controlled by a municipal securities dealer."

"(25) The term 'bank regulatory agency', when used with respect to a municipal securities dealer required to be registered under this title which is a bank or a department or division of a bank, means:

"(A) the Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a department or division of any such bank;

"(B) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a department or division thereof, a bank holding company, a bank subsidiary of a bank holding company other than a bank specified in paragraph (A) or (C) of this subsection, or a department or division of such subsidiary; and

"(C) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a department or division thereof. As used in this paragraph, the terms 'bank holding company' and 'subsidiary' have the meaning given them in section 2 of the Bank Holding Company Act of 1956, as amended."

SEC. 3. Paragraphs (8), (9) and (10) of Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) are amended to read as follows:

"(8) No broker or dealer registered under section 15 of this title shall, during any period when it is not a member of a securities association registered with the Commission under section 15A of this title, effect any transaction in, or induce the purchase or sale of, any security (otherwise than on a national securities exchange) unless such broker or dealer and all natural persons associated with such broker or dealer meet such specified and appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable. No municipal securities dealer registered under section 15B(a) of this title (or registered as a broker or dealer under section 15 of this title) shall, during any period when it is not a member of an association of municipal securities dealers registered under section 15B(b) of this title (or if registered as a broker-dealer, is not a member of a securities association registered under section 15A of this title), effect any transaction in, or induce the purchase or sale of, any municipal security unless such municipal securities dealer and all natural persons associated with such municipal securities dealer meet such specified and appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or appropriate. The Commission shall establish such standards by rules and regulations, which may—

"(A) appropriately classify brokers, dealers and municipal securities dealers and persons associated with brokers, dealers and municipal securities dealers (taking into account relevant matters, including types of business done and nature of securities sold);

"(B) specify that all or any portion of such standards shall be applicable to any such class;

"(C) require persons in any such class to pass examinations prescribed in accordance with such rules and regulations; and

"(D) provide that persons in any such class other than a broker, a dealer, or a municipal securities dealer and partners, officers, and supervisory employees (which latter term may be defined by the Commission's rules and regulations and as so defined shall include branch managers of brokers or dealers) of brokers, dealers, and municipal securities dealers, may be qualified solely on the basis of compliance with such specified standards of training and such other qualifications as the Commission finds appropriate. "The Commission may prescribe by rules and regulations reasonable fees and charges to defray its costs in carrying out this paragraph, including, but not limited to, fees for any examination administered by it, or under its direction. The Commission may cooperate with securities associations registered under section 15A of this title, municipal securities associations registered under section 15B(b) of this title, and with exchanges registered under section 6 of this title in administering examinations and may require brokers, dealers and municipal securities dealers subject to this paragraph and persons associated with such brokers, dealers and municipal securities dealers to pass examinations administered by or on behalf of any such securities association, association of municipal securities dealers, or exchange and to pay to such securities association, association of municipal securities dealers, or exchange reasonable fees or charges to defray the costs incurred by such securities association, association of municipal securities dealers, or exchange in administering such examinations.

"(9) In addition to the fees and charges authorized by paragraph (8) of this section, each broker, dealer, and municipal securities dealer subject to such paragraph (8) shall pay to the Commission such reasonable fees and charges as may be necessary to defray the costs of additional regulatory duties required to be performed by the Commission because such broker, dealer, or municipal securities dealer is not a member of a registered securities association or registered association of muncipal securities dealers. The Commission shall establish such fees and charges by rules and regulations.

"(10) No broker or dealer subject to paragraph (8) of this subsection shall effect any transaction in, or induce the purchase or sale of, any security (otherwise than on a national securities exchange) and no municipal securities dealer subject to such paragraph shall effect any transaction in, or induce the purchase or sale of, any municipal security in contravention of such rules and regulations as the Commission may prescribe designed to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of Commission, and remove impediments to and perfect the mechanism of a free and open market."

SEC. 4. Subparagraph (C) of section 15(b)(5) of the securities Exchange Act of 1934 (15 U.S.C. 78o(b)(5)) is amended by striking the word "or" immediately before the word "dealer," and by adding the following immediately after that word: "or municipal securities dealer,".

SEC. 5. Paragraphs (1) and (2) of Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) are amended to read as follows:

"(c)(1) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange, and no municipal securities dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security, by means of any manipulative, deceptive, or other fraudulent device or contrivance. The Commission shall, for the purposes of this subsection, by rules and regulations define such devices or contrivances as are manipulative, deceptive, or otherwise fraudulent.

"(2) No broker or dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange, and no municipal securities dealer shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of, any municipal security, in connection with which such broker, dealer or municipal securities dealer engages in any fraudulent, deceptive, or manipulative act or practice, or makes any fictitious quotation. The Commission shall, for the purposes of this paragraph, by rules and regulations define, and prescribe means reasonably designed to prevent, such acts and practices as are fraudulent, deceptive, or manipulative and such quotations as are fictitious."

SEC. 6. Section 15A(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–3(i)) is amended to read as follows:

"(i)(1) The rules of a registered securities association may provide that no member thereof shall deal with any nonmember (as defined in paragraph (2) of this subsection) except at the same prices, for the same commissions or fees, and on the same terms and conditions as are by such member accorded to the general public.

"(2) For the purposes of this subsection, the term 'nonmember' shall mean (A) any broker or dealer who makes use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security otherwise than on a national securities exchange, who is not a member of any registered securities association, except a broker or dealer who deals exclusively in commercial paper, bankers' acceptances, or commercial bills, and (B) any municipal securities dealer who is not a member of any registered securities association or any national association of municipal securities dealers.

"(3) Nothing in this subsection shall be so construed or applied as to prevent any member of a registered securities association from granting to any other member of any registered securities association or any national association of municipal securities dealers any dealer's discount, allowance, commission, or special terms."

SEC. 7. The Securities Exchange Act of 1934 is amended by inserting after section 15A (15 U.S.C. 780–3) the following new section:

"MUNICIPAL SECURITIES

"SEC. 15B(a)(1). No municipal securities dealer (other than one registered as a broker or dealer under section 15 of this title) shall make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any municipal security unless such municipal securities dealer is registered in accordance with this subsection. The Commission, by rules and regulations or by order, upon its own motion or upon application, may conditionally or unconditionally exempt any municipal securities dealer or class of municipal securities dealers from any provision of this subsection or of the rules and regulations prescribed under this subsection, if the Commission finds that the application of such provision to such municipal securities dealer or class of municipal securi-

ties dealers is neither necessary nor appropriate in the public interest or for the protection of investors.

"(2) A municipal securities dealer may be registered for the purposes of this subsection by filing with the Commission an application for registration, which shall contain such information in such detail as to such dealer and any persons associated with such dealer as the Commission, by rule, shall require as necessary or appropriate in the public interest or for the protection of investors. Except as otherwise provided in paragraphs (3) and (4) of this subsection, such registration shall become effective thirty days after the receipt of such application by the Commission or within such shorter period of time as the Commission may determine.

"(3) The Commission shall, by order, deny registration to any municipal securities dealer seeking registration if it finds, on the record and after notice and opportunity for hearing, that such denial is in the public interest and that such municipal securities dealer is not able to comply with the provisions and purposes of this section and the rules and regulations prescribed thereunder, or that if it were so registered, such municipal securities dealer would be subject to suspension or the revocation of its registration under paragraph (6) of this subsection.

"(4) Pending determination whether the registration of a municipal securities dealer shall be denied, the Commission may, by order, postpone the effective date of such registration for a period not to exceed ninety days, except that the Commission may by order, after notice and opportunity for hearing (which may consist solely of affidavits and oral arguments), extend such period until final determination if it finds good cause for such extension and publishes its reasons therefor.

"(5) Any municipal securities dealer registered under this subsection may, upon such terms and conditions as the Commission may deem necessary in the public interest or for the protection of investors withdraw from registration by filing a written notice of withdrawal with the Commission. If the Commission finds that any such municipal securities dealer for whom a registration statement is pending, is no longer in existence or has ceased to do business as a municipal securities dealer, it shall by order cancel or deny the registration.

"(6) The Commission shall, by order censure, suspend for a period not exceeding twelve months, revoke the registration of, or impose appropriate limitations on the activities, functions and operations of any municipal securities dealer if it finds, on the record after notice and opportunity for hearing, that such censure, denial, suspension, revocation or limitation is in the public interest and that such municipal securities dealer has committed or omitted any act or omission enumerated in clause (A), (D) or (E) of paragraph (5) of section 15(a) of this title or has been convicted of any offense specified in clause (B) of such paragraph (5) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct or practice specified in clause (C) of such paragraph (5).

(7) The Commission may, by order censure any person, or bar or suspend for a period not exceeding twelve months any person from being associated with a municipal securities dealer, if the Commission finds, on the record after notice and opportunity for hearing, that such censure, barring, or suspension is in the public interest and that such person has committed or omitted any act or omission enumerated in clause (A), (D) or (E) of paragraph (5) of section 15(a) of this title or has been convicted of any offense specified in clause (B) of said paragraph (5) within ten years of the commencement of the proceedings under this paragraph or is enjoined from any action, conduct, or practice specified in clause (C) of said paragraph (5). It shall be unlawful for any person as to whom such an order barring or suspending him from being associated with a municipal securities dealer is in effect, willfully to become, or to be, associated with a municipal securities dealer, without the consent of the Commission, and it shall be unlawful for any municipal securities dealer to permit such a person to become, or remain, a person associated with him, without the consent of the Commission, if such municipal securities dealer knew, or in the exercise of reasonable care, should have known, of such order.

"(8) Any provision of this title (other than section 5 and paragraph (1) of this subsection) which prohibits any act, practice or course of business if the mails or any means or instrumentality of interstate commerce are used in connection therewith shall also prohibit any act, practice, or course of business by any municipal securities dealer registered pursuant to this subsection or any person acting on behalf of such municipal securities dealer, irrespective of any use of the mails or any means or instrumentality of interstate commerce in connection therewith.

"(b)(1) Any association of municipal securities dealers may be registered with the Commission as a national association of municipal securities dealers, under the terms and conditions hereinafter provided in this section, by filing with the Commission a registration statement in such form as the Commission may prescribe, setting forth the following information, and accompanied by the following documents:

"(A) Copies of its constitution, articles of incorporation, bylaws, or rules or instruments corresponding to the foregoing, whatever the name, and its stated policies and practices relating to its organization, membership, rules of conduct, proceedings, financial condition, methods of trading by members, and similar matters, which are hereinafter collectively referred to in this section as the 'rules of the national association'; and

"(B) Such other information and documents as the Commission, by rule, may prescribe.

"Such registration shall not be construed as a waiver by such association or any member thereof of any constitutional right or of any right to contest the validity of any rule or regulation under this title.

"(2) An applicant-association shall not be registered as a national association of municipal securities dealers unless it appears to the Commission that—

"(A) by reason of the number of its members, the scope of their transactions in municipal securities, and the geographical distribution of its members such association will be able to comply with the provisions of this title respecting transactions in municipal securities and the rules and regulations thereunder and to carry out the purposes of this section.

"(B) such association is so organized and is of such a character as to be able to comply with and to enforce compliance by its members with the provisions of this title respecting transactions in municipal securities, the rules and regulations thereunder, and the rules of the national association, and to carry out the purposes of this section.

"(C) the rules of the association provide that any municipal securities dealer registered under section 15B(a) of this title or under section 15 of this title as a broker or dealer may become a member of such association; provided, however, that the rules of the association may exclude municipal securities leaders who would be barred from membership in a registered national securities association under paragraph (3) or (4) of section 15A(b) of this title, who are not qualified in accordance with paragraph (D) of this subsection, and who do not meet a standard or requirement which the Commission finds to be necessary or appropriate in the public interest or for the protection of investors and to carry out the purposes of this section.

"(D) the rules of the association provide that, except with the approval or at the direction of the Commission in cases in which the Commission finds it appropriate in the public interest so to approve or direct, no person shall become a member and no natural person shall become a person associated with a member, unless such person is qualified to become a member or a person associated with a member in conformity with specified and appropriate standards with respect to the training, experience, and such other qualifications of such person as the association finds necessary or desirable, and in the case of a member which is a broker or dealer, the financial responsibility of such member. For the purpose of defining such standards and the application thereof, such rules may—

"(i) appropriately classify prospective members (taking into account relevant matters, including type of business done and whether such members are organized as brokers or dealers or as banks) and persons proposed to be associated with members.

"(ii) specify that all or any portion of such standards shall be applicable to any such class.

"(iii) require persons in any such class to pass examinations prescribed in accordance with such rules.

"(iv) provide that persons in any such class other than prospective members and partners, officers and supervisory employees (which latter term may be defined by such rules and as so defined shall include branch managers of members which are brokers or dealers) of members, may be qualified solely on the basis of compliance with specified standards of training and such other qualifications as the association finds appropriate.

"(v) provide that applications to become a member or a person associated with a member shall set forth such facts as the association may prescribe as to the training, experience, and other qualifications (including, in the case of an applicant for membership which is a broker or dealer, financial responsibility) of the applicant and that the association may adopt procedures for verification of qualifications of the applicant.

"(vi) require any class of persons associated with a member to be registered with the association in accordance with procedures specified by such rules (any application or document supplemental thereto required by such rules of a person seeking to be registered with such association shall, for the purposes of subsection (a) of section 32 of this title, be deemed an application required to be filed under this title).

"(E) the rules of the association assure a fair representation of its members and the public in the adoption of the rules of the association and amendments thereto, the selection of its officers and directors, and in all other phases of the administration of its affairs; including, as a minimum, provisiions that—

"(i) the governing body of the association, whether called a Board of Governors, Board of Directors, or some other name, shall be divided equally among individuals who are (I) associated with, and representative of, municipal securities dealers which are brokers or dealers (hereinafter referred to as the 'dealer representatives'), (II) associated with, and representative of, municipal securities dealers which are banks or departments or divisions of banks, (hereinafter referred to as the 'bank representatives'), and (III) representative of investors in and issuers of municipal securities, and who are not associated with any municipal securities dealer (hereinafter referred to as the 'public representatives'); and

"(ii) in voting for members of the governing board of the association, the dealer representatives shall be elected by members of the association which are brokers or dealers, the bank representatives shall be elected by members of the association which are banks or departments or divisions of banks, and the public representatives shall be elected by all members of the association.

"(F) the rules of the association provide for the equitable allocation of dues, fees, and other charges among its members to defray reasonable expenses;

"(G) the rules of the association provide for the regulation of its members' dealings in municipal securities and, with respect to such dealers are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to provide safeguards against unreasonable profits or unreasonable rates of commissions or other charges, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination among customers, issuers, or municipal securities dealers, to fix minimum profits, to impose any schedule of prices, to impose any schedule or fix minimum rates of commissions, allowances, discounts, or other charges, or to impose any burden on competition not reasonably necessary to achieve the purposes of this section."

"(H) the rules of the association provide that its members and persons associated with its members shall be appropriately disciplined for any violation of any provision of this title respecting municipal securities, the rules or regulations thereunder, or the rules of the association by expulsion, suspension, limitation of activities, functions, and operations, fine, or censure, and in the case of a person associated with a member by being suspended or barred from being associated with any member.

"(I) the rules of the association provide a fair and orderly procedure with respect to the disciplining of members and persons associated with members and the denial of membership to any municipal securities dealer seeking membership therein. In any proceeding to determine whether any member or other person shall be disciplined, such rules shall require that specific charges be brought; that such member or person shall be notified of, and be given an opportunity to defend against, such charges; that a record shall be kept; and that the determination shall include—

"(A) a statement setting forth any act or practice in which such member or other person may be found to have engaged, or which such member or other person may be found to have omitted;

"(B) a statement setting forth the specific provision of this title, or rule or regulation thereunder, or rule of the association of which any such act or practice, or omission to act, is deemed to be in violation;

"(C) a statement whether the acts or practices prohibited by such provision or rule or the omission of any act required thereby, are deemed to constitute conduct inconsistent with just and equitable principles of trade; and

"(D) a statement setting forth the penalty imposed. In any proceeding to determine whether a municipal securities dealer shall be denied membership, such rules shall, as a minimum, provide that the municipal securities dealer shall be notified of, and be given an opportunity to be heard upon, the specific grounds for denial which are under consideration; that a record shall be kept; and that the determination shall set forth the specific grounds upon which the denial is based.

"(3) The Commission shall, upon the filing of an application for registration pursuant to paragraph (1) of this subsection (b), publish notice of the filing and afford interested persons a reasonable opportunity for comment. Within ninety days of such filing, the Commission shall—

"(A) by order grant such registration if the Commission finds that the requirements of this subsection are satisfied, or

"(B) institute further proceedings to determine whether the application should be denied. After notice of the grounds for denial under consideration and opportunity for hearing, the Commission shall by order grant such registration unless it finds that a requirement of this subsection is not satisfied, in which case the Commission shall by order deny such registration. The Commission shall conclude its proceedings and issue an order granting or denying the application within one hundred and eighty days of the filing of the application unless the Commission finds good cause to extend such period and publishes its reasons for so finding.

"(4) A national association of municipal securities dealers may, upon appropriate application in accordance with the rules and regulations of the Commission, and upon such terms as the Commission may deem necessary or appropriate for the protection of investors, withdraw its registration.

"(5) (A) Each national association of municipal securities dealers shall file with the Commission, in accordance with such rules as the Commission may prescribe, copies of any proposed change in, addition to, or deletion from the rules of the association accompanied by a concise general statement of the basis and purpose of such proposed change, addition, or deletion. No such proposed change, addition, or deletion shall take effect except in accordance with the provisions of this program.

"(B) The Commission shall, upon the filing of a proposed change in, addition to, or deletion from the rules of a national association of municipal securities dealers, publish notice of such proposal together with the association's statement of basis and purpose and shall afford interested persons a reasonable opportunity for comment on the proposed change, addition, or deletion. The Commission shall make available for public inspection copies of any correspondence between the Commission or its staff and any interested person relating to the proposed change, addition, or deletion. Within twenty-one days of the filing of such proposed change, addition, or deletion, or within such longer period up to sixty days as the Commission finds to be appropriate and publishes its reasons therefor, the Commission shall—

"(i) publish a rule approving such change, addition, or deletion and declaring it effective if the Commission finds that the rules of the association as so changed would not be inconsistent with the requirements of paragraph (2) of this subsection (b) or with the purposes of this section and are not otherwise inconsistent with the public interest, or

"(ii) institute further proceedings, including providing interested persons an opportunity for oral presentation of views, data, or arguments, to determine whether the proposed change, addition, or deletion should be disapproved, in whole or in part. Within one hundred and fifty days of the filing of the proposed change, addition, or deletion, the Commission shall conclude such proceedings and shall publish a rule either approving such proposed change, addition, or deletion and declaring it effective or disapproving such proposed change, addition, or deletion if it finds that the rules of the association as so changed would be inconsistent with the requirements of paragraph (2) of this subsection (b) or with the purposes of this section or are otherwise inconsistent with the public interest except that the Commission may extend the period for such proceedings if it finds good cause therefor and publishes its reasons for so finding.

"(C) The Commission, by rule or regulation or by order, upon its own motion, or upon application setting forth the reasons therefor, may conditionally or unconditionally accelerate the effectiveness of any proposed change in, addition to, or deletion from the rules of a national association of municipal securities dealers or any class or classes of such proposed changes, additions, or deletions, if it appears to the Commission that such accelerated effectiveness is not inconsistent with the purposes of this paragraph.

"(6) If any national association of municipal securities dealers takes any final disciplinary action against any member thereof or any person associated with a member, or denies admission to any person seeking membership therein, the association shall promptly file a notice thereof with the Commission. The notice shall be in such form and contain such information as the Commission, by rule, may prescribe and shall be available for public inspection. Any such disciplinary action or denial of admission by an association shall be subject to review by the Commission, on its own motion, or upon application by any person aggrieved thereby filed within thirty days after notice of such action has been filed with the Commission and received by such aggrieved person, or within such longer period as the Commission may determine. Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of such action, unless the Commission otherwise orders, after notice and opportunity for the presentation of views on the question of a stay (which presentation may consist solely of affidavits).

"(7) (A) In a proceeding to review disciplinary action taken by a national association of municipal securities dealers against a member or a person associated with a member, after notice and opportunity for hearing and upon consideration of the record before the association and such other matters as it may deem material—

"(i) if the Commission finds that such member or such person has engaged in such acts or practices, or has omitted such acts, as the association has found him to have engaged in or to have omitted, and that such acts or practices, or omissions to act, are in violation of such provisions of this title, or such rules adopted thereunder, or such rules of the national association as have been designated in the determination of the association, it shall, by order, so declare and affirm the action taken by the association or, if appropriate, modify the sanctions or penalties in accordance with subparagraph (B) of this paragraph, or remand to the association for further proceedings; or

"(ii) if the Commission does not find that such member or such person has engaged in such acts or practices, or has omitted such acts, as the association has found him to have engaged in or to have omitted, or if the Commission finds that such acts or practices are not prohibited by the designated provisions of this title, or of the rules adopted thereunder, or of the rules of the national association, the Commission shall, by order set aside the action of the association or remand to the association for further proceedings.

"(B) The Commission, having due regard for the public interest, the protection of investors, and the need to remove any burden on competition not reasonably necessary for the achievement of the purposes of this section, if it finds that any disciplinary action taken by a national association of municipal securities dealers against a member or a person associated with a member is neither necessary nor appropriate or is excessive or oppressive, may cancel, or reduce such action or require the remission of any penalty associated therewith.

"(8) In any proceeding to review the denial of membership in a national association of municipal securities dealers, if the Commission, after notice and opportunity for hearing and upon consideration of the record before the association and such other matters as it may deem material, determines that the specific grounds on which such denial is based exist in fact, that such denial is consistent with the rules of the association, and that such rules have not been applied so as to discriminate unfairly against such applicant or to impose burdens on competition not reasonably necessary for the achievement of the purposes of this title, it shall, by order, dismiss the proceeding. In the absence of such a determination, the Commission shall, by order, set aside the action of the association and require it to admit the applicant to membership."

"(9) The Commission is authorized, if in its opinion such action is necessary or appropriate in the public interest, for the protection of investors, or to carry out the purposes of this section—

"(A) by order to suspend for a period not exceeding twelve months or to revoke the registration of a national association of municipal securities dealers or to censure or impose limitations upon the activities, functions, and operations of such association if the Commission finds, on the record after notice and opportunity for hearing, that such association has violated any provision of this title with respect to municipal securities or of the rules and regulations thereunder or has failed to enforce compliance with any such provision or with its own rules, or has engaged in any other activity tending to defeat the purposes of this section;

"(B) by order to suspend for a period not exceeding twelve months or to expel from a national association of municipal securities dealers any member thereof, or to suspend for a period not exceeding twelve months or to bar any person from being associated with a member thereof, if the Commission finds, on the record after notice and opportunity for hearing, that such member or person has violated any provision of this title respecting municipal securities or the rules and regulations thereunder or has effected any transaction for any other person who, he had reason to believe, was violating with respect to such transaction any such provision; and

"(C) by order to remove from office any officer or director of a national association of municipal securities dealers who, the Commission finds, on the record after notice and opportunity for hearing, has willfully violated any provision of this title respecting municipal securities or of the rules and regulations thereunder, or has willfully failed to enforce the rules of the national association, or has willfully abused his authority.

"(10)(A) The rules of a national association of municipal securities dealers may provide that no member thereof shall deal in municipal securities with any nonmember (as defined in subparagraph (B) of this paragraph) except at the same prices, for the same commissions or fees, and on the same terms and conditions as are by such member accorded to the general public.

"(B) For the purposes of this paragraph, the term "nonmember" shall mean any municipal securities dealer who makes use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any municipal security and who is not a member of any national association of municipal securities dealers or any registered securities association.

"(C) Nothing in this paragraph shall be so construed or applied as to prevent any member of a national association of municipal securities dealers from granting to any other member of any national association of municipal securities dealers or any registered securities association any dealer's discount, allowance, commission, or special terms.

"(11) The Commission, as it deems necessary or appropriate in the public interest, for the protection of investors, to insure fair dealing in municipal securities, to insure the fair administration of a national association of municipal securities dealers, or to remove burdens on competition not reasonably necessary to the achievement of the purposes of this section, may, by rule, abrogate, alter, or supplement the rules of any national association of municipal securities dealers in the following manner:

"(A) The Commission shall publish in the Federal Register any such proposed rule together with a full statement of its reasons for proposing to abrogate, alter, or supplement the rules of national association of municipal securities dealers in the manner specified and an evaluation of the effect of the proposed rule on the procedures and operations of the association and the market for municipal securities.

"(B) The Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions, with respect to any such proposed rule and any presentation or submission by the Commission in connection therewith. Before the close of the period for the presentation and submission of views, the Commission shall present orally or submit in writing such facts and other evidence on which it then intends to rely under subparagraph (C) of this paragraph in promulgating any rule. A transcript shall be kept of any oral presentations.

"(C) The Commission shall publish with any rule adopted pursuant to this paragraph a full statement of its reasons for abrogating, altering, or supplementing the rules of national association of municipal securities dealers in the manner provided, the facts and other evidence upon which such reasons are based, and an evaluation of the principal arguments presented against the adoption of such rule.

"(D) Except as provided in subparagraphs (A) through (C) of this paragraph, rulemaking under this paragraph shall be in accordance with the procedures specified in section 553 of title 5, United States Code. Nothing in this section shall be construed to impair or limit the Commission's power to make rules and regulations pursuant to any other authority under this title.

"(12) A national association of municipal securities dealers, with the concurrence of the Commission, may, with respect to any member who is also a member of a registered securities association, arrange with such securities association to inspect and examine such member for compliance with the provisions of this title respecting transactions in municipal securities and the rules and regulations thereunder and with the rules of the national association of municipal securities dealers. A national association of municipal securities dealers, with the concurrence of the Commission, may, with respect to any member which is a bank, arrange for the appropriate bank regulatory agency to inspect and examine such member for compliance with the provisions of this title respecting transactions in municipal securities and the rules and regulations thereunder and with the rules of the national association of municipal securities dealers. No such arrangement with a registered securities association or bank regulatory agency shall in any way limit or remove the responsibilities of a national association of municipal securities dealers to enforce the provisions of this title respecting transactions in municipal securities and the rules and regulations thereunder and its own rules.

"(c)(1) The Commission shall consult and cooperate with the bank regulatory agencies, and with state banking authorities having supervision over municipal securities dealers which are banks or departments or divisions of banks, so that the accounts, correspondence, memorandums, papers, books, records and other data required of municipal securities dealers which are banks or departments or divisions of banks, and the inspections thereof, may be in accord with sound banking practices to the maximum extent consistent with the protection of investors and the public interest. At least 15 days prior to the issuance for public comment or the adoption of any proposed rule or regulation applicable to municipal securities dealers or any national association of municipal securities dealers, the entry of any order granting or denying the registration of any association of municipal securities dealers, or the publication of any rule approving or disapproving a proposed change in, addition to, or deletion from the rules of any national association of municipal securities dealers, the Commission shall consult with and request the views of each of the appropriate bank regulatory agencies with respect to such proposed rule, order, or change, addition, or deletion toward the end that the regulation of municipal securities dealers which are banks or departments or divisions of banks may be in accord with sound banking practices to the maximum extent consistent with the protection of investors. In connection with any disciplinary proceeding brought by the Commission against a municipal securities dealer which is a bank or a department or division of a bank or any review by the Commission of any disciplinary action taken against any such municipal securities dealer by a national association of municipal securities dealers, the Commission shall, prior to the entry of an order, consult with and request the views of the appropriate bank regulatory agency toward the end that sanctions imposed against municipal securities dealers which are banks or departments or divisions of banks may contribute to sound banking practices to the maximum extent consistent with the protection of investors and the public interest.

"(2) Each municipal securities dealer which is a bank or a department or division of a bank shall at the time of filing a registration statement pursuant to subsection (a) of this section or any subsequent report or information pursuant to this title file copies of such documents with the appropriate bank regulatory agency. Each national association of municipal securities dealers shall at the time of filing a registration statement pursuant to subsection (b) of this section, and proposed change in, addition to, or deletion from its rules pursuant to paragraph (5) of such subsection (b), or any notice of disciplinary action against a municipal securities dealer which is a bank or a department or division of a bank pursuant to paragraph (6) of such subsection (b), file copies of such documents with the bank regulatory agencies.

SEC. 6. Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)) is amended by striking out the word "and" immediately before the phrase "every broker or dealer registered pursuant to section 15 of this title", and by adding the following immediately after that phrase: "every municipal securities dealer registered pursuant to section 15B(a) of this title, and every association of municipal securities dealers registered pursuant to section 15B(b) of this title,".

SEC. 7. Section 23(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78(w)(b) is amended by adding at the end thereof the following additional sentence: "The Commission shall also include in its annual report to Congress for each fiscal year a summary of the Commission's regulatory activities with respect to municipal securities

dealers, including a statement of the number of enforcement proceedings against and disciplinary review proceedings involving municipal securities dealers which are banks or departments or divisions of banks, the sanctions imposed on such municipal securities dealers, and an analysis of the impact of such proceedings and sanctions on sound banking practices."

By Mr. BENTSEN:

S. 2478. A bill to amend the Higher Education Act of 1965 to remove the needs provision for families with income with less than $15,000 a year from the student loan subsidy provision of that act. Referred to the Committee on Labor and Public Welfare.

STUDENT LOAN PROGRAM

Mr. BENTSEN. Mr. President, I am today introducing legislation to eliminate the "means test" in the guaranteed student loan program for students from families earning less than $15,000 per year.

Mr. President, most of our federally supported programs of student financial aid are geared, as they should be, to children from poor families, to give them accessibility to a higher education they would otherwise be unable to obtain. Over the years, we have established a number of programs directed to the poor—national student loans, educational opportunity grants, the college work study program, and more recently, the innovative basic opportunity grant program. These programs are estimated to benefit nearly 2 million students.

However, Mr. President, the problem of accessibility to a college education is not limited to the very poor, even though they must receive our priority. In recent years, and particularly this last year, children from parents in the supposedly middle income group earning $10,000 to $15,000 a year have experienced extraordinary difficulties in acquiring the necessary financial support to enter college.

As a result, we are beginning to rethink our entire concept of what constitutes a "middle class" income, particularly in relation to college costs.

College, no less than other services in our society, has suffered severely from the ravages of inflation. The U.S. Office of Education reports that the cost of tuition, housing, and food—but not personal expenses—at a private 4-year college now averages $3,281 a year, up from $2,712 in 1970. If a student settles for a public 4-year college in his own hometown, or State, he may get by for about $2,100, including textbooks and all other expenses.

For a "middle class" family of four with an income around $12,000, these figures spell out one indisputable fact: they may well have to borrow to send their child to college. And in large numbers of cases today, the family is not able to secure a loan.

In the Education Amendments of 1970, a well-intentioned Congress changed the groundrules on the guaranteed student loan program, the major program of student financial aid available to middle-class students. Prior to that legislation, if a student's family had an adjusted income of less than $15,000 a year, the student was eligible for an interest-subsidized loan of $1,500 a year until graduation, with Federal or State agencies guaranteeing the loan.

But the 1970 amendments stipulated that loans must be made according to actual family need rather than income. This year, familes applying for guaranteed loans must make a complete disclosure of their assets and pass a "means test" to establish their need for educational aid.

Mr. President, a "means test" can be very deceptive. The system may well be blind concerning whether the family holds liquid or nonliquid assets. An equity in a home built up carefully over 20 years does not automatically signal a family's ability to contribute to a college education; in my State, as in others, people cannot borrow against their homestead. Even where such borrowing is not prohibited, a strong public policy argument can be made that a family should not be forced to place their homes in jeopardy for any reason, even one so noble as a college education.

Under the new procedures now in force, the colleges' financial aid officer, after reviewing the application with the "needs test" recommends to the bank the amount a student requires. The bank, while free to loan a higher amount, very rarely does so; in the District of Columbia, for example, over 60 percent of the banks will not loan above the college's recommendation, which is often arbitrarily low.

The crisis in the loan program can be illustrated by some graphic statistics. Nationwide, loans are down 40 percent. In several States, the situation is even more serious. According to an article in the August 6, U.S. News & World Report, loans are off 52 percent in the 26 States where the State agencies run the program. In Pennsylvania, they are off 78 percent, in Georgia 64 percent.

Even granting some confusion with the new rules and the lateness of the legislation, these figures are very distressing.

The measure I offer today would remove the "means test" for families with moderate-income levels. It would not affect the other student aid programs directed primarily at the poor. I support these other programs and believe they should be expanded. But we must not make the mistake of freezing out the middle class from any kind of support at all, particulary when our definition of "middle class" has undergone such a radical alteration in recent years.

It is this same "middle class" that largely supports our State and Federal Government. It is this same "middle class" that feels pressure from an increase of food prices at an annual rate of 49 percent during phase III. And it is this same "middle class" that feels the credit crunch during this period of the highest interest rates in our history.

While it may be fashionable in some quarters to deride the middle class, it is simply not fair in 1973 to exaggerate their ability to contribute to their children's education. I believe this legislation is necessary to place the one federally supported student financial aid program available to middle-class parents and students back on a more equitable basis of performance.

I recognize that there are other problems with this program. I know that the rate of default is high, that banks do not find either subsidized or nonsubsidized loans very attractive, that the basis for the needs analysis may well require further study. But the student who is refused a loan and who may, therefore, be barred from college is not concerned with such sophisticated issues. All he knows is that he has missed a vital year of school and that he cannot pursue his education.

I urge my colleagues on the Labor and Public Welfare Committee to reexamine the philosophical underpinnings of this legislation. In the meantime, I believe this step is necessary to eliminate the arbitrariness and confusion in the administration of guaranteed loans.

At this point, I ask unanimous consent that a copy of my legislation be printed in the RECORD.

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

S. 2478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 428(a)(1)(1) of the Higher Education Act of 1965 is amended by striking out all that follows "(determined by such institution)" and inserting in lieu thereof a semicolon and the word "or".

(b) The amendment made by subsection (a) of this section shall be effective with respect to loans made after the date of enactment of this legislation.

By Mr. RANDOLPH:

S. 2479. A bill to promote the conservation of energy in the design of new federally owned and federally assisted facilities. Referred to the Committee on Public Works.

FACILITIES CONSTRUCTION ENERGY CONSERVATION ACT OF 1973

Mr. RANDOLPH. Mr. President, historically, as a nation, we have been accustomed to abundant, low-priced energy. In recent months, however, there has been considerable discussion of the full societal consequences of our projected energy growth for national security and environmental quality. Several aspects of these dialogs deserve special mention.

Growth has been inherent in the American psyche and fundamental to the viability of our current economic system. Yet, as I have stated repeatedly, the cumulative effect of all these factors is a disturbing picture. It reveals our country, and numerous others, embarked on a gigantic gamble that reliable and abundant production of crude oil, natural gas, and coal from all sources—domestic and foreign—will ensue.

As I noted last Saturday in Senate remarks in support of Senator HUMPHREY's amendment promoting the conservation of petroleum resources by the Department of Defense, it is clear that the energy crisis is no illusion. It is a very real problem and it is going to be with us for a long time. To live with it, and eventually overcome it, will require total dedication of our people; cooperative and affirmative action at all levels of Government; and a significant investment of money.

In the past, our Nation has been accustomed to a fuel abundance and the early signs of energy shortages which are now upon us were ignored. The basic fact is that our country's appetite for fuel is enormous.

It is startling to note that in 1960, our energy demands when converted to a common base in terms of oil or a so-called oil equivalent were 21 million barrels of oil per day. In 1970, this figure had reached 34 million barrels per day and is projected to increase to 48 million by 1980.

Even more revealing is the per capita energy demand in oil equivalent. In 1960, it was 44 barrels per person per year; in 1970, it was 60 barrels; and for 1980, according to current estimates it will be 77 barrels of oil per person per year.

Recent energy supply shortages raise questions regarding our capability to sustain this growth. For example, in addition to present gasoline shortages there are all the signs of heating oil shortages this winter and for several years to come.

In less than a decade, the combination of increasing energy demands and declining known reserves of domestic energy resources has revolutionized this country's energy prospects for the future. In a short space of time events have transformed our Nation's domestic fuel supplies into one large deficit.

NEED FOR ENERGY CONSERVATION

The time is long overdue to put into effect a comprehensive national program of energy conservation, designed to accommodate as much as possible of our future growth in energy consumption through the more efficient conversion and consumption of energy. The potential is reportedly there for a 30- to 40-percent increase in the amount of usable energy from the same quantity of basic energy resources we are using today. By 1980, energy savings could amount to as much as 7.3 million barrels of oil a day.

Federal energy conservation initiatives designed to achieve this objective can serve to both mitigate our dependence on oil imports as well as stabilize our total consumption of basic energy resources. Several possibilities were outlined in my January 16, 1973, Senate remarks. At that time, I proposed to—

Upgrade the 1971 FHA home insulation standard.

Establish Federal guidelines for the incorporation of energy conservation practices in new buildings (mandatory for new Federal and Federally insured buildings and homes). (The Senate Public Works Subcommittee on Buildings and Grounds will study this aspect in detail this year.)

Establish a national program of consumer education to foster more efficient use of energy in our daily lives.

Develop and publish Federal guidelines for the labeling of electrical equipment to reflect efficiency of energy utilization.

Initiate comprehensive national review of the potential for energy conservation within the transportation sector of our economy, hopefully, to lead to the adoption of Federal policies for fostering energy conservation in this end use.

These alternatives for fostering energy conservation, and other significant opportunities, are addressed in S. 2176, the National Fuels and Energy Conservation Act of 1973. This measure is a product of the Senate's National Fuels and Energy Policy study and was ordered reported by the Committee on Interior and Insular Affairs on September 13, 1973.

SAVINGS IN SPACE CONDITIONING USES OF ENERGY

Many examples can be selected from our present uses of energy that are inexcusably wasteful in the light of this country's, and the world's, projected energy plight. The New York State Public Services Commission, for example, has calculated that if all new buildings were properly insulated as well as electrically heated, the superior insulation alone would save roughly 40 percent in the new energy demand resulting from this construction. By 1980, this savings alone could amount to 5 to 6 percent of our total national oil requirements.

The potential energy savings through improved insulation in homes is substantial. Reports indicate that if the June 1971, FHA insulations standards were followed, energy savings could amount to 29 percent for a home heated with gas and 19 percent where heated by electricity—electrically heated homes already require more insulation. By upgrading the 1971 FHA standard the energy savings for a gas heated home could approach 50 percent. For the home owner this could amount to an annual savings of as much as $155 at today's natural gas prices and even larger savings at anticipated future prices.

Mr. President, the purpose of the legislation that I introduce today is to insure energy conservation practices are employed in the design of new Federal and federally insured facilities.

SUMMARY OF FACILITIES CONSTRUCTION ENERGY CONSERVATION ACT OF 1973

This measure directs that all Federal agencies consider energy conservation in the construction of Federal facilities and federally insured facilities to the fullest extent consistent with their existing authorities.

Each agency of the Federal Government would be required, for all new facities exceeding 50,000 square feet, to prepare a complete life-cycle cost analysis. This energy consumption analysis, provided for in section 3, would have to consider the facility's heating, ventilation, air conditioning, and lighting system, in addition to other energy consuming systems.

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

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

S. 2479

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 "Facilities Construction Energy Conservation Act of 1973."

STATEMENT OF FINDINGS

SEC. 1. (a) The Congress hereby finds—

(1) That federally owned and federally insured or otherwise assisted facilities have a significant impact on the Nation's consumption of energy;

(2) That energy conservation practices adopted for the design and utilization of these facilities will have a beneficial effect on the Nation's overall supply of energy;

(3) That the cost of the energy consumed by these facilities over the life of the facilities must be considered, in addition to the initial cost of constructing such facilities; and

(4) That the cost of energy is significant and facility designs must be based on the lowest total life cycle cost including the initial construction cost and the cost of the energy consumed, the cost of operation of the facility and the cost of maintenance over the economic life of the facility.

(b) The Congress declares that it is the policy of the United States to insure that energy conservation practices are employed in the design of new Federal and Federally insured facilities. To this end the Congress encourages Federal agencies to analyze the cost of the energy consumption of each new facility constructed, over its economic life, in addition to the initial cost of constructing the facility.

DEFINITIONS

SEC. 2. For purposes of this act:

(a) The term "Federal Agency" means an executive agency (as defined in Section 105 of title 5, United States Code) and includes the United States Postal Service.

(b) The term "facility" means any structure or groups of structures utilized by federal agencies as described in Sec. 2(1) and those structures constructed with monies from Federal grants and guarantees.

(c) The term "initial cost" means the required cost necessary to construct the facility.

(d) The term "economic life means the projected or anticipated useful life of the facility.

(e) The term "life-cycle costs" means the total cost of the facility including its initial or construction cost and all annual costs for maintenance, repairs, utilities (energy sources) and replacement necessary for continued operation of the facility.

(f) The term "energy consumption analysis" means the evaluation of all energy consuming systems and components by demand and type of energy, including the internal energy load imposed on the facility by its occupants, equipment and components and the external energy load due to environmental conditions.

FEDERAL PROGRAMS

SEC. 3. (a) The Congress authorizes and directs that Federal agencies shall to the fullest extent consistent with their authority under Federal law carry out the construction of facilities under their jurisdiction in such a manner as to further the policy declared in Section 1(b).

(b) Each department, agency, or instrumentality of the Federal Government having jurisdiction over any direct Federal government or Federally assisted construction program shall require the preparation of a complete life-cycle cost analysis for all new facilities exceeding 50,000 sq. ft. of useable floor space, for the expected life of the facility.

(c) This life-cycle cost analysis shall include but not be limited to such elements as:

(1) The coordination and positioning of the facility on its physical site;

(2) The amount and type of glass employed in the facility;

(3) The amount of insulation incorporated into the facility design;

(4) The variable occupancy and operating conditions of the facility; and

(5) An energy consumption analysis of the facility's heating, ventilating, and air-conditioning system, lighting system, and all other energy consuming systems. The energy consumption analysis of the operation of energy consuming systems in the facility should include but not be limited to:

(i) The comparison of two or more system alternatives;

(ii) The simulation of each system over the entire range of operation of the facility for a year's operating period; and

(iii) The evaluation of the energy con-

sumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

(d) The life-cycle cost analysis performed for each facility shall provide but not be limited to the following information:

(1) The initial cost of each energy consuming system being compared and evaluated;

(2) The annual cost of all utilities;

(3) The annual cost of maintaining each energy consuming system; and

(4) The average replacement cost for each system expressed in annual terms for the economic life of the facility.

(e) Selection of the optimum system or combination of systems to be incorporated into the design of the facility shall be based on the life-cycle cost analysis for the economic life of the facility.

By Mr. COOK:

S. 2480. A bill to amend the Economic Stabilization Act of 1970 relative to petroleum products. Referred to the Committee on Banking, Housing and Urban Affairs.

COST OF LIVING COUNCIL AND PHASE IV OIL AND GAS REGULATIONS

Mr. COOK. Mr. President, I stand today to again denounce actions taken by the Cost of Living Council to regulate prices within the petroleum industry. This is not the first time I have expressed frustration with regulations written by the Cost of Living Council and, regretfully, I fear it will not be the last. I was one of two Senators who voted against the extension of the Economic Stabilization Act in April giving continuation authority to impose wage and price controls to the Cost of Living Council, and as time goes on, I am more convinced of the wisdom of that decision. In the past year, particularly, I have seen more inequities in the administration of this act than I care to recount. During the month of August a substantial number of beef processors informed me that they would have to close down until after the freeze. CLC managed to produce a very distorted market on all meat prices and availability at that time for which every housewife in America is now paying. I dare anyone to try to convince me that this was relief. All communications relating to the serious beef market conditions for processors and retailers receiving in this office were forwarded to the Cost of Living Council so that I could be assured they were well-informed of the situation. A letter was written to Dr. Dunlop urging that the beef freeze be terminated. I also met with administration officials on the matter. The only reaction I noted was that the freeze was shortened by a few days. I regret that this was not helpful and no one was fooled by the concession.

Now here again we in the Senate are faced with the burden of trying to do the Cost of Living Council's work. Despite the fact that a number of Senators, including myself, held a meeting here last Tuesday on the matter with representatives from the Cost of Living Council, and Dr. Dunlop was questioned Thursday on the subject by the Joint Economic Committee, the very meager response announced by the Executive Director is to request that service stations report to CLC with respect to their costs and profits by September 25. He said:

It would take no longer than a week after that to raise the ceilings on prices gas station operators may charge their customers.

Still we have no assurance whether or not the Cost of Living Council will allow the necessary passthrough of raw material costs that is presently forbidden by CLC regulations. Meanwhile, our service station owners across the country are losing thousands of dollars per day.

There is more. When my office calls the Cost of Living Council we are assured that refiners and jobbers may pass along their increased raw materials costs. In other instances reported to me by major oil and gas industry refiners and jobbers, I have learned that they have either been told they cannot pass through their increased costs, or they remain confused as to whether or not they can. The formula supplied to the refiners by CLC for computing their costs and profits which may be passed along is supposed to allow the passthrough of these increased costs of raw petroleum materials. However, the formula, which requires the use of a computer and mathematician, does not permit such a passthrough. CLC now admits that their formula does not work and they have promised to rework it. Meanwhile, what are the refiners supposed to do? At this point, I ask unanimous consent to have printed in the RECORD, a copy of the formula and the instructions for its application. It is sheer obfuscation.

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

CHAPTER I—COST OF LIVING COUNCIL; PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

AMENDMENTS TO SUBPART L

Subpart L of Part 150 of Title 5 of the Code of Federal Regulations is amended in §§ 150.355(c), 150.356, 150.357 and 150.358(g).

Section 150.355(e) is amended to allow refiner-retailers to increase ceiling prices for retail sales of No. 2 heating oil on a monthly basis to reflect, on a dollar-for-dollar basis, increases in costs of imported No. 2 heating oil incurred in the preceding month. This provision corrects Subpart L as issued on August 17, 1973 which inadvertently omitted refiner-retailers in § 150.355. This amendment implements the Council's intention to provide the same option for refiner-retailers as afforded retailers and reseller-retailers in § 150.355(d)(2) as originally published. As amended, therefore, Subpart L provides that refiner-retailers, reseller-retailers and retailers of No. 2 heating oil may adjust ceiling prices for No. 2 heating oil on the first day of each month to reflect increased costs of imports of No. 2 heating oil incurred during the preceding month, provided that a report, on forms prescribed by the Council, is made to the Internal Revenue Service by the 5th day of the month after any such price increase.

The new § 150.355 replaces existing §§ 150.356 and 150.357. It prescribes with greater specificity the requirements governing the inclusion of a refiner's increase costs-of-imports and domestic crude petroleum in the computation of its ceiling prices for retail sales of gasoline, No. 2-D diesel fuel and No. 2 heating oil and the base prices for covered products.

Section 150.356(b) adds a new subparagraph containing definitions used in the section. Attention is particularly directed to the definitions of "landed cost" in which the Council has set out more precise methods for determining both the costs of imported petroleum products and transportation costs for those products. In particular, this definition is intended to make clear the rules for calculating these costs in transactions between affiliated entities. Costs are established in certain cases of transactions among affiliated entitites of the same firm by requiring use of accounting procedures generally accepted and consistently and historically applied by the firm rather than treating such transactions as "arms-length" transactions involving either posted prices or imported world scale transportation rates. The Council intends to review the accounting procedures which firms subject to this section apply in making the necessary computations and reserve the right to require firms to modify their accounting procedures for purposes of this provision where the Council concludes that the accounting practices used by the firms are not a fair reflection of the actual costs incurred. Changes in business practices designed to frustrate the purposes of these rules may also be disallowed by the Council.

Another change from the regulations, as originally published on August 17, 1973, is substitution of a monthly cost period for each type of product of measure both base costs and current costs. The original provision established a single date (i.e., May 15, or July 31) on which to measure cost. This change eliminates the need for using imputed costs in many cases and will provide a more realistic and accurate basis for measurement of increased costs of imports and domestic crude petroleum.

Section 150.356 provides a more precise method for calculating the allocation of increased costs of imports and domestic crude petroleum to various products. The Council has furnished in this amendment, a mathematical formula which firms must use in calculating the dollar amount of the increased costs of imports and domestic crude petroleum. The formula is intended to further implement the Council's intention of allowing recovery of increased costs of imports and domestic crude on a dollar-for-dollar basis. The substance of the corresponding provisions in the regulations, as originally published on August 17, 1973, has been generally retained. Having been made aware of some uncertainty among firms as to precisely what form of computations should be employed, the Council developed this formula to provide explicit guidance and to avoid misunderstandings.

The Council believes that the clarification embodied in these amendments provide assurance that increased costs of imports can be fully recovered on a dollar-for-dollar basis. This assurance should encourage the importation of the additional quantities of these products which will be required in the months immediately ahead.

Section 150.356 is further amended to make clear that increased costs of imports incurred in a particular month cannot be recouped in a period of time less than the next succeeding month, but that to the extent that recoupment does not occur in its entirety in the next succeeding month, the unrecouped portion may be recovered in a later month.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 F.R. 1473; E.O. 11730, 30 F.R. 19345; Cost of Living Council Order No. 14, 38 F.R. 1489)

In consideration of the foregoing Chapter I of Title 6 of the Code of Federal Regulations

is amended as follows, effective 11:59 p.m., e.s.t., August 19, 1973.

1. Section 150.355(c) is amended to read as follows:

§ 150.355 *Retail sales of gasoline, No. 2–D diesel fuel and No. 2 heating oil.*

* * * * *

(c) *Ceiling prices: refiner-retailers.* (1) The ceiling price for retail sales of gasoline of a particular octane number, No. 2–D diesel oil and No. 2 heating oil by a refiner-retailer at each outlet where the refiner-retailer sells such item is (i) the weighted average price at which each such item was lawfully priced in transactions on May 15, 1973, at each such outlet plus (ii) increased costs of imports incurred between May 15, 1973 and August 1, 1973 and calculated pursuant to § 150.356(d)(1). If the refiner-retailer first offered gasoline, No. 2-D diesel fuel or No. 2 heating oil at a particular outlet after May 15, 1973, the price at which each such item was priced in transactions on May 15, 1973, at the nearest comparable outlet shall be used in computing the ceiling price. In computing the ceiling price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973.

(2) Notwithstanding the provisions of subparagraph (1), monthly adjustments to the ceiling prices of No. 2 heating oil may be made on the first day of each month beginning with September 1973 when calculated pursuant to § 150.356(d)(2) to reflect costs of imported No. 2 heating oil. Any refiner-retailer which increases the ceiling price on No. 2 heating oil pursuant to this subparagraph must submit a report in accordance with the forms and instructions issued by the Cost of Living Council by the fifth day of the month in which the ceiling is increased.

2. Section 150.356 is amended to read as follows:

§ 150.356 *Allocation of refiner's increased costs of imports and domestic crude petroleum*

(a) *Scope*—This section prescribes the requirements governing (1) the inclusion of a refiner's increased costs of imports in the computation of its ceiling prices for retail sales of gasoline; No. 2–D diesel fuel, and No. 2 heating oil; and base prices for covered products; and (2) the inclusion of a refiner's increased costs of domestic crude petroleum and purchased domestic petroleum products commingled for accounting purposes in the computation of its base prices for covered products.

This section does not apply to increased costs of imports and increased costs of domestic crude petroleum for products a refiner resells as a refiner-reseller pursuant to § 150.359.

(b) *Definitions.* For purposes of this section—

"Cost of domestic crude petroleum" means (1) For purposes of arms-length transactions the purchase price provided that it conforms with the requirements of § 150.354. (2) For purposes of a transaction between affiliated entities, the posted price for the new crude petroleum and the posted price or price determined pursuant to § 150.354(c)(3) for base production control level crude petroleum. If there is no posted price in a particular field, the related price for that grade of new domestic crude petroleum which is most similar in kind and quality at the nearest field for which the price is posted and the price determined pursuant to § 150.354(c)(3) for base production control level crude petroleum.

"Firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

"Increased costs of domestic crude petroleum" means the difference between the total cost of domestic crude petroleum during the month of measurement and the total cost of domestic crude petroleum during the month of May. Increased costs of domestic crude petroleum also means the difference between the total cost of a purchased domestic petroleum product commingled for accounting purposes during the month of measurement and the total cost of that product commingled for accounting purposes during the month of May.

"Increased costs of imports" means, for an imported product, the difference between the total landed cost for that product landed during the period of measurement and the total landed cost of that product landed during the month of May 1973.

"Landed cost" means: (1) For purposes of complete arms-length transactions, the purchase price at the point of origin plus the actual transportation cost. (2) For purposes of products purchased in arms-length transactions and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin plus the transportation cost computed by use of the accounting procedures generally accepted and consistently and historically applied by the firm concerned. (3) For purposes of products purchased in a transaction between affiliated entities and shipped pursuant to an arms-length transaction, the cost of the product computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned plus the actual transportation cost. (4) For purposes of products purchased and shipped pursuant to a transaction between affiliated entities, the costs of the product and the transportation, both computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned.

"Special products" means gasoline, No. 2–D diesel fuel and No. 2 heating oil.

"Transactions between affiliated entities" means all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest.

(c) *Allocation of increased costs*—(1) *General rule.* In computing its ceiling prices and base prices for covered products pursuant to §§ 150.355(a) and 150.358(g), a refiner may increase its May 15, 1973 selling prices to each class of purchaser on the first day of each month beginning with September 1973 by an amount to reflect the increased costs of imports and increased costs of domestic crude petroleum allowable under paragraphs (d), (e) and (f) of this section, provided that the amount of increased costs used in computing a ceiling price or base price is calculated by use of the general formula set forth in subparagraph (2). If, in any month beginning with September 1973, a firm establishes a base price for any covered product or a ceiling price for No. 2 heating oil which does not include the entire amount of increased costs calculated pursuant to this formula and allowable under paragraph (d), (a) and (f) of this section for a particular item, the unused portion may be added to the May 15, 1973 selling price to compute the respective base price or ceiling price for a subsequent month.

For purposes of this subpart, transactions between affiliated entities may be used to calculate increased costs. Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the Council may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of those entities or the Council may disallow any costs which it determines to be in excess of the proper measurement of costs. Costs incurred in transactions in which covered products are obtained which are resold without being refined by the firm or commingled for accounting purposes may not be included in the calculation of the general formula.

(2) *General formula.*

$$D_{ij^n} = \frac{\left[Ax\frac{S_i^n}{S^n}+B\right]\frac{S_{ij}^n}{S_i^n}}{q_{ij^n}}$$

Where—

D=The dollar increase that can be applied to each May 15, 1973 selling price of the covered product concerned to each class of purchaser to compute either the ceiling price or base price to each class of purchaser.

P=The unit price of a covered product other than crude petroleum. For imported products, the landed cost.

q=The quantity or volume of a covered product other than crude petroleum.

C=The unit cost of crude petroleum.

Q=The quantity or volume of crude petroleum.

$$S=\sum_{i=1}^{4}\sum_{j=1}^{3}[P_{ij}q_{ij}]$$

which is the total sales of all covered products other than crude petroleum.

$$S_i=\sum_{j=1}^{3}[P_{ij}q_{ij}]$$

which is the total sales of a specific covered product or products other than crude petroleum.

$S_{ij}=P_{ij}$ q_{ij} which is the total sales of a specific covered product or products other than crude petroleum at a specific level of distribution. For ceiling prices, j=1.

For base prices, j=2 or 3, as appropriate, for special products and j=1, 2 or 3 for other covered products.

$$A=\sum_{R}[C_k{}^tQ_k{}^t-C_k{}^oQ_k{}^o-X^o(Q_k{}^t-Q_k{}^o)$$

Where

$$X^o=\frac{\sum_{k=1}^{2}[C_k{}^oQ_k{}^o]}{\sum_{k=1}^{2}[Q_k{}^o]}$$

which is the average unit cost of crude petroleum. For ceiling price determinations, K=2 except in computing X^o.

$$B=\sum_{k}[p_{ik}{}^tq_{ik}{}^t-p_{ik}{}^oq_{ik}{}^o-Y^o(q_{ik}{}^t-q_{ik}{}^o)]$$

Where

$$Y^o=\frac{\sum_{j=1}^{3}[p_{ij}{}^oq_{ij}{}^o]}{\sum_{j-1}^{3}[q_{ij}{}^o]}=\frac{\sum_{j=1}^{2}[p_{ij}{}^oq_{ij}{}^o(p_{ij}{}^o-p_{ik}{}^o)}{\sum_{j=1}^{2}[p_{ij}{}^oq_{ij}{}^o]}$$

The type of covered product is referenced by the transcript i:

i=1 represents No. 2 heating oil.

i=2 represents gasoline.

i=3 represents No. 2–D diesel fuel.

i=4 represents all covered products other than special products.

The category of purchaser or level of distribution is referenced by the subject j:

j=1 represents sales to utilities consumers.

j=2 represents sales to retailers.

j=3 represents sales to wholesalers.

The origin of a covered product is referenced by the subscript k:

k=1 represents domestic origin.

k=2 represents foreign origin or import.

Superscripts:

n=The fiscal quarter of the preceding year corresponding to the respective period of measurement.

o=The month of May 1973.

t=The period of measurement. For ceiling prices other than No. 2 heating oil, t=the month of July 1973.

For ceiling prices of No. 2 heating oil, t=the month of July 1973 as to costs derived from imported crude petroleum and the month of measurement for imported No. 2

heating oil. For base prices, t=the month of measurement. (The month of measurement is the month preceding the current month).

u=The current month for base prices and the ceiling price of No. 2 heating oil and the month of July, 1973 for the ceiling prices of gasoline and No. 2–D diesel fuel. Quantities calculated for the current month will be estimates which should be based on the best available data.

Mathematical Term:

Σ Represents a calculation by summing, with respect to the designated subscript all terms designated in the superscript.

(d) Measurement of increased costs of imports for inclusion in commutation of ceiling prices of special products.

(1) *Adjustment to May 15, 1973 selling price.* In computing its ceiling prices for a special product, a refiner may increase its May 15, 1973 selling price to each class of purchaser by an amount to reflect the increased costs of imported crude petroleum and imported special product attributable to retail sales of that special product using the differential between the month of July 1973 and the month of May 1973.

(2) *Subsequent adjustments to the ceiling price of No. 2 heating oil. Notwithstanding* the provisions of subparagraph (1), in computing the ceiling price for No. 2 heating oil, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser by an amount to reflect the increased costs of imported crude petroleum using the differential between the month of July 1973 and the month of May 1973 and the increased costs of imported No. 2 heating oil using the differential between the preceding month and the month of May 1973, attributable to retail sales, provided that the refiner uses the amount derived from this computation in lieu of the amount calculated in subparagraph (1) of this paragraph. In computations pursuant to this subparagraph, the term

$$\frac{S^{a}{}_{1}}{S^{a}}$$

should be computed as in subparagraph (1) of this paragraph to correspond with the month of July while the term

$$\frac{S^{a}{}_{1j}}{S^{a}{}_{1}}$$

should be computed to correspond to the appropriate month of measurement used for determining the increased costs of imported No. 2 heating oil.

(e) Measurement of increased costs of imports and domestic crude petroleum for inclusion in computation of base prices of covered products other than special products.

In computing base prices for a covered product other than a special product, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser to reflect the increased costs of imports and the increased costs of domestic crude petroleum attributable to sales of covered products using the differential between the month of measurement and the month of May 1973, provided that the amount of increased costs included in computing base prices of a particular covered product other than a special product must be equally applied to each class of purchaser. To the extent that a refiner does not allocate increased costs pursuant to this paragraph, it may include that part of its increased costs attributable to special products in computing its base prices for those products pursuant to paragraph (f) of this section except that if any base price of a special product is increased pursuant to paragraph (f) than the part of increased costs attributable to retail sales of special products after July 31, 1973 may not be included in the ceiling price of No. 2 heating oil or the base price of any covered product.

(f) Measurement of increased costs of imports and domestic crude petroleum for inclusion in computation of base prices of special products. In computing base prices for a special product, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser by an amount to reflect the increased costs of imports and increased costs of domestic crude petroleum attributable to sales of that special product at other than retail using the differential between the month of measurement and the month of May 1973 provided that such increased costs have not been otherwise allocated pursuant to paragraph (a) of this section.

3. Section 150.357 is revoked.

4. Section 150.358(g) is amended to read as follows:

§ 150.358 *Price rule: Refi eries*

* * * * *

(g) Base price. The base price for a particular month for sales of an item by a refiner is the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, or if none occurred on that date, in the transaction next preceding May 15, 1973, plus increased costs of imports and domestic crude petroleum incurred between the month of measurement and May 15, 1973 and measured pursuant to the provisions of §150.336. In computing the base price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973.

Mr. COOK. Mr. President, we know what happened during the beef freeze. We were ignored. We already have an energy crisis. Why must the cost of living council wait until so much damage has already occurred before they are convinced of the unintelligibility of their regulations?

Why must it take them so long to react to dangerous market situations which they themselves create?

We are going to need fuels of all kinds this winter and the Cost of Living Council ought to bear that in mind. In parts of the midwest, the cold weather season has already started. We will need fuel for transportation. Should not some consideration be given to some of the problems we will no doubt soon be encountering? What about the increased need for speedy transportation of crops to market after harvesting? Remember the difficulties and lost food of last fall?

I think the Cost of Living Council ought to be aware of the threats to the already-in-short-supply fuel situation they are posing. We have enough natural energy problems now without creating additional ones.

Further, the Cost of Living Council has distorted the market for both the jobbers and retailers by forcing them to use base periods for the computation of their profits which do not reflect normal conditions. Retailers have been ordered to use January 10, 1973, as their base period which was a time of gasoline wars throughout most parts of the country. Consequently, many service station owners are operating again at very low profit margins which were unanticipated and cannot, therefore, absorb the increased costs of the raw materials being passed on to them. Jobbers have made similar complaints about their base period date of May 15, 1973. While an application to the Cost of Living Council for an exception may be filed, the procedure can be long and costly.

The Cost of Living Council knows all of this and what escapes my understanding is why they have not taken steps to correct the situation. Is there something underlying this whole set of circumstances that we do not understand? If so, I think it would be helpful to have it explained to us. However, I fear that is not the answer.

Service station operators met over the weekend, and although they have temporarily decided against a nationwide strike, the possibility is still imminent. Many dealers throughout the country, however, have independently closed down their stations because they can no longer afford to operate at such losses. We are not talking about people who ordinarily make large profits, but we are speaking of small businessmen who have already had their share of problems this year and whose futures are uncertain.

While I am just as concerned about the cost of living as the next person, I think that if the prices of petroleum products are rising throughout the world, as they are, then we in this country are just going to have to face the facts. And those facts mean that if we want a product, we are going to have to be willing to compete for it. That means paying higher prices. Perhaps if we have enough of higher prices, we will be willing to cut down on our use of these ever-dwindling supplies of petroleum products—and fight the pollution problem at the same time. This also points up the immediacy of action on the part of the Congress to develop a long-range, fully financed energy resource program so that this country is not dependent upon, and subject to, the extremely high prices proposed for crude oil imports into the United States. The American people are always shouting to the Congress to decide upon our priorities, and I say to the American people that they have got to do the same thing. We must work together.

While there have been a number of amendments introduced in the Senate to correct the regulations for the oil and gas industry under phase IV, I believe any amendment accepted by this body should clarify that all raw materials increased costs should be able to be passed through by refiners, wholesalers, and retailers to the ultimate consumer. Such an amendment must also reflect a reasonable base period for the computation of profits for the wholesaler and retailer. Consequently, today I am offering the following amendment to the Economic Stabilization Act which I hope will be considered promptly.

ADDITIONAL COSPONSORS OF BILLS

S. 2117

At the request of Mr. WILLIAMS, the Senator from Massachusetts (Mr. BROOKE), the Senator from Iowa (Mr. CLARK), the Senator from Alaska (Mr. GRAVEL), and the Senator from Indiana (Mr. HARTKE) were added as cosponsors of S. 2117, the Federal Mine Safety and Health Amendments of 1973.

S. 2160, S. 2161, S. 2162, S. 2163, AND S. 2164

At the request of Mr. PERCY, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 2160, a bill to reorganize and consolidate certain functions of several Federal agencies and departments in a new Criminal Justice Services Administration in the Department of Justice to promote more

effective operations and management of the federal system of criminal justice; S. 2161, a bill relating to the employment and training of criminal offenders; S. 2162, a bill relating to voting rights of former offenders; S. 2163, a bill relating to parole of offenders; and S. 2164, a bill relating to the parole of certain District of Columbia offenders.

S. 2308

At the request of Mr. MONDALE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 2308, a bill to amend the Social Security Act to provide for judicial review by providers and others of actions undertaken pursuant to titles XVIII and XIX of such act, and for other purposes.

S. 2354

At the request of Mr. HUMPHREY, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of S. 2354, authorizing U.S. participation in the African Development Fund of the African Development Bank.

S. 2420

At the request of Mr. BAYH, the Senator from California (Mr. TUNNEY) and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of S. 2420, a bill to amend the Economic Stabilization Act of 1970 to adjust ceiling prices applicable to certain petroleum products and to permit retailers of such products to passthrough increased costs.

S. 2445

At the request of Mr. MCINTYRE, the Senator from New Mexico (Mr. DOMENICI), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Maryland (Mr. BEALL) were added as cosponsors of S. 2445, a bill to amend the provisions of the Social Security Act to consolidate the reporting of wages by employers for income tax withholding and old-age, survivors, and disability insurance purposes, and for other purposes.

S. 2454

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2454, the Emergency Home Finance Act.

EMERGENCY HOME FINANCE ACT

Mr. PACKWOOD. I am pleased to join with the Senator from Minnesota (Mr. HUMPHREY) in cosponsorship of S. 2454, a bill to assure an adequate flow of consumer savings into the home finance market by establishing rate ceilings on time deposits of less than $100,000.

This proposal has been referred to the Committee on Banking, Housing and Urban Affairs. As I have advised the Senator from Minnesota, I have serious reservations about the wisdom of Congress setting, in the law, the maximum permissible interest rates under the interest rate control program. Prior to the current difficulties being faced by the thrift institutions, the system of authorizing the regulatory agencies to establish interest rate ceilings worked extremely well.

However, the situation we face in this Nation as a result of the introduction of the "wild card" certificate of deposit by the Federal Reserve and the Federal Home Loan Bank Board is one which troubles me greatly.

Thrift institutions around the Nation report increasing difficulty in their attempts to attract sufficient funds from savers. This difficulty is reflected in two facts: Thrifts are being forced to pay exceedingly high rates in order to attract deposit funds and, even at these high rates, are finding it impossible to attract a continuing steady flow of funds. The net effect of these difficulties is felt very clearly and immediately by an American family setting out to buy a home today. They simply cannot secure mortgage credit within their financial means—if they can secure it at all.

As have a number of my colleagues, I have sought to convince the regulatory institutions of the harm that has befallen the thrift institutions, the homebuilding industry, and, most important of all, the American family seeking to buy a home, as a result of the continuation of this "wild card" certificate of deposit. To date, our recommendations and counsel have been ignored by those officials responsible for this situation.

Accordingly, I feel obliged to support the Senator from Minnesota in his efforts to overrule the regulatory agencies in this regard.

As a member of the committee which will consider this legislation, I am confident that we will be able to work with these agencies in order to arrive at a satisfactory resolution of this problem. However, if for any reason we are unable to do so, I will not hesitate to take the appropriate action through the legislative process to secure relief.

I ask unanimous consent that a copy of my correspondence with the Federal Reserve and the Federal Home Loan Bank Board, along with their respective replies, be printed at this point in the RECORD along with several other items.

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

U.S. SENATE,
Washington, D.C., August 2, 1973.

Hon. ARTHUR BURNS,
Chairman, Federal Reserve System,
Washington, D.C.

DEAR MR. CHAIRMAN: The action taken by the Federal Reserve Board on July 5, 1973, to increase savings interest rates has created almost catastrophic conditions for the real estate, home building and savings and loan industry.

The chief problem posed by the movement upward in savings rates was the creation of a "wildcard" savings category with no rate ceilings on funds deposited for four years or longer. From reports received in Oregon and around the country, there is ample evidence that this action in effect meant the removal of ceilings on savings certificates or roughly half the funds held by savings and loan associations. The result of a free-rate certificate has been that shorter term certificates are, in fact, not salable. Commercial banks are promoting this category heavily, paying 8 percent and more, on 4-year certificates.

The result of this "wildcard" category has been a savings rate war. It is impossible, of course, for savings and loan associations to match the rates paid by commercial banks without charging unconscionably high rates for mortgages—which will most certainly bring most mortgage markets to a halt. Some urban areas have already hit the 9 percent mortgage rate level, while others have had to close their mortgage window entirely.

During the month of July, the savings and loan industry projects losses of about $200 million a week; or in excess of $800 million for the month. These figures translated into average loans per home ($27,000) mean that 7,500 homes per week can no longer be financed by savings and loans.

Obviously, the new rate schedules have affected the flow of savings from a positive to a negative position, increased home interest rates, increased the cost of housing, and slowed down home construction, which will hasten an uncalled for downturn in the economy. If this situation is not corrected, there could be a massive outflow of savings from savings accounts in thrift institutions that have historically supplied the funds for home mortgage loans.

I urge the Federal Reserve to abide with the intent of the recently extended Regulation Q to maintain a differential between savings rates paid by savings and loans and commercial banks in order to assure adequate funds for home mortgages. This would mean that the "wildcard" category should be eliminated and a definite savings rate with differential be placed on this 4-year, $1,000 minimum certificate.

Cordially,

BOB PACKWOOD.

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., August 8, 1973.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: I am writing in response to your request for comment on the action of July 5 in which the Board of Governors raised the ceilings on interest rates that member banks may pay on consumer-type savings and time deposits.

This action was taken in recognition of the higher interest rates that are now generally available to savers on market securities. Complementary actions were taken by the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board for institutions under their jurisdiction, and followed consultations on the coordinated actions among the three agencies.

The Board is monitoring developments closely and has announced several actions to deal with problems that have arisen:

1. On July 26, the Board announced it was imposing limits on the aggregate amount of the experimental "no ceiling" certificates of deposit which had been authorized. The amount a member bank could issue was limited to 5 per cent of the bank's total time and savings deposits.

2. On July 24, the Board issued for public comment a proposed rule that would impose a penalty on a time deposit contract that was changed to either increase the interest rate or extend the maturity. The penalty would be identical to that imposed for early withdrawal of a time deposit—namely, the regular passbook savings rate less three months' interest.

3. The Board also proposed on July 26 to define more precisely the requirements of member banks in disclosing the terms of their deposit contracts, both in advertising and in direct dealings with customers.

Under the Federal Reserve's new Regulation Q ceilings, effective July 5, member banks are permitted to pay interest rates of up to 5 per cent on regular passbook savings, 5½ percent on limited withdrawal 90 day time accounts (the so-called "golden passbooks"), 6 per cent on 1 year to 2½ year time certificates of deposit, and 6½ per cent on time certificates written to mature in 2½ years and beyond. Rate ceilings on compar-

able deposit instruments were increased by the other regulatory agencies also, so that the maximum interest rates permitted to be paid in every case are higher for the savings and loan associations and mutual savings banks than for the commercial banks. The differential ranges between one-fourth and one-half percentage point, depending on the instrument.

In addition to these customary and traditional forms of time deposit, the regulatory authorities also authorized the introduction of a new savings instrument, in denominations of $1,000 or more and maturities of 4 years or more, on which no interest rate ceiling is specified. Because it is intended as a truly long-term savings instrument, it carries substantial interest-rate penalties for early withdrawal. The rate actually earned in that event is reduced to the rate on regular passbook savings, less three months' interest. Some institutions—both banks and savings and loan associations—have chosen to offer quite high interest rates on these instruments, often ranging from 7 to 7½ per cent, or even higher, if held to maturity. But savers must commit their funds for a minimum of 4 years to obtain these rates. (The Board's July 26 action limits the amount that member banks can issue to 5 per cent of their total time and savings deposits.)

The main reason for providing this savings instrument for the depository institutions is to make it possible for them, at their discretion, to have an instrument competitive with open-market instruments that can be offered to savings customers. The funds are long-term in character, so they can be invested with some certainty as to maturity by the depository institutions. They should be attractive to only a small segment of the savings market—customers who have accumulated sums for long-term purposes and who have the option of moving their funds out of the depository institutions and into the public bond market.

It is certainly not our intention, by authorizing for member banks the new long-term certificate or the increase in Regulation Q ceilings generally, to deny funds to the mortgage market. Quite the contrary. In view of the rise that has taken place in market interest rates this year, the regulatory authorities were fearful that depository institutions, especially thrift institutions, would lose their ability to obtain savings in competition with the attractive yields available on securities, as had been the case in 1966 and again in 1969–70. With the permissible ceiling rates raised, and with the new ceiling-free long-term certificate, the institutions have a much better chance of sustaining their competitive positions, thus tending to help, rather than hinder, the maintenance of a reasonable supply of mortgage funds.

The Board will continue to monitor developments closely with respect to institutional savings flow in the days and weeks ahead, and will be watching competitive developments with respect to the new long-term savings certificates especially carefully. If there are significant abuses, or if the competitive balance is significantly disrupted by these new instruments, the Board will be prepared to consider further altering of the terms and conditions under which the institutions are permitted to bid for their savings funds.

Sincerely yours,

ROBERT L. CARDON,
Assistant to the Board.

U.S. SENATE,
Washington, D.C., August 2, 1973.

Hon. THOMAS BOMAR,
Chairman, Federal Home Loan Bank Board, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed you will find a copy of a letter I sent earlier today to Chairman Burns of the Federal Reserve expressing my concern over the adverse impact that the so-called "wild card" is having on the thrift institutions of the nation.

I am advised that the FHLBB shares, in large part, my concern in this regard. I further am advised that it is impractical to suggest that the FHLBB take action independent of any corrective action to be taken by the Federal Reserve Board in this regard. As such, I have chosen to concentrate my efforts for the moment on Chairman Burns.

I do want to keep you and your Colleagues advised of my interest in this matter. It is for this reason that I am forwarding this letter.

Thank you for your consideration of my concern, I am,

Cordially yours,

BOB PACKWOOD.

FEDERAL HOME LOAN BANK BOARD,
Washington, D.C., August 3, 1973.

Hon. BOB PACKWOOD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PACKWOOD: I appreciate your letter and the copy of your correspondence with Chairman Burns of the Federal Reserve. The conditions your letter to Chairman Burns refers to are serious and a major concern to us.

We are monitoring the situation around the country on a constant basis and we'll do all possible through the credit facilities of our twelve Federal Home Loan Banks and the Federal Home Loan Mortgage Corporation to meet the shortfalls in fund availability in order that savings and loans can continue to lend. Additionally, yesterday we cut savings and loan liquidity requirements to free up funds to mortgages.

We appreciate your interest and would be pleased to supply you information we have whenever it would be helpful to you.

Sincerely,

THOMAS R. BOMAR.

[From the New York Times, July 25, 1973]

SAVINGS AND LOAN INDUSTRY FIGHTS CEILING-FREE RATES

(By Edwin L. Dale, Jr.)

AVAILABLE SAVINGS RATES

Minimum period for deposit	Commercial bank (percent)	Savings banks and savings and loans (percent)
Passbook (none)	5	5¼
90 days to 1 year	5½	5¾
1 to 2½ years	6	6½
More than 2½ years	6¼	6¾
4 years, $1,000	(1)	(1)

[1] No minimum.

WASHINGTON, July 24.—The savings and loan industry has started an intensive lobbying campaign in Congress to wipe out the new permission for banks and thrifty institutions to offer to savers four-year certificates of deposit with no ceiling on the interest rate.

The issue could come to a head within a week. The vehicle would be the report of a joint Senate-House committee dealing with legislation that, among other things, extends the basic authority for the regulatory agencies to impose controls on the interest rates that can be paid to savers. The authority expires a week from today.

The new four-year savings certificates with no interest ceiling have become something of a sensation, with massive newspaper advertising campaigns under way in many parts of the country.

One savings and loan association here, Washington Permanent, offered a certificate charged a bank's biggest and best business borrowers—and the available supply was sold out within a week. On Monday, there were long lines of savers trying to buy the certificates as the supply ran out.

Although many savings and loan associations have joined commercial banks in offering the new ceiling-free certificates, interest rates running as high as 8 per cent, the industry is troubled by the situation on several counts.

First, there is both a regulatory and practical limit on the volume of these certificates any association can offer—a limit that does not apply to commercial banks. Certificates bearing more than 6¾ per cent interest cannot exceed 5 per cent of an association's total deposits.

The associations fear that they will therefore be able to capture only a limited amount of the new market, while there is no limit on commercial banks.

Even if the 5 per cent limit were formally removed by the Federal Home Loan Bank Board, the associations could not in practice offer unlimited amounts of the high-interest certificates because, unlike banks, they have most of their money in long-term mortgages, some written years ago with relatively low interest rates. Thus their interest income sets a limit on what they can pay to depositors.

Bank loans are generally for much shorter terms and thus the interest rate on them can more quickly reflect current market conditions.

Another reason for savings and loan industry's reservations was described today by Stephen Slipher, Washington manager of the United States Savings and Loan League, as the "show-stopper" effect of the ceiling-free certificates. The new instruments have tended to render much less attractive the shorter-term certificates with lower interest rates on which savings and loan associations have placed heavy reliance to obtain deposits.

The top officials of the league, in a letter to member associations last week, said that "the result of a free rate category has been that shorter-term certificates are, in fact, not salable."

The lobbying effort to alter the situation aims at Congressional action to require ceilings for all certificates offered by both banks and thrift institutions. The legislative situation is somewhat complex.

House and Senate conferees have long since agreed to extend the basic authority for interest-rate ceilings beyond its July 31 expiration date. But they have been unable to reconcile differing provisions of the legislation on another matter—the so-called "NOW" accounts, which are a form of interest-bearing demand deposit offered by savings banks in Massachusetts and New Hampshire.

The aim of the savings and loan industry is to have the conferees write into their explanatory report on the final version of the bill language expressing the desire of Congress that interest-rate ceilings, across the board on all kinds once imposed, must be imposed on savings deposits and certificates.

PRESSURE TO BE APPLIED

While this might not have the force of law, it would exert powerful pressure on the Federal Reserve Board, the Federal Home Loan Bank Board and the Federal Deposit Insurance Corporation—the three agencies involved—to eliminate the provision for ceiling-free, four-year certificates that was announced earlier this month.

In a related development today, the Federal Reserve moved to eliminate some of the apparent competitive advantage enjoyed by the commercial banks in competing for savers' money. It offered for comment a proposed rule that would apply the penalties now imposed for early withdrawal of certificate deposits to conversions from one type of certificate to another bearing a higher rate.

This penalty already applies in the case of savings and loan associations.

HOME BUILDERS IN WARNING

WASHINGTON, July 24.—The National Association of Home Builders warned Congress today that the current shortage of mortgage money and rising mortgage interest rates are threatening both housing production and the ability of families to purchase homes.

George C. Martin, president of the association, told the Senate housing subcommittee that recent Administration action authorizing an increase in the rates paid savers had "achieved nothing more than a shift of savings from one type of institution to another."

"This has been accomplished by wild bidding between commercial banks and thrift institutions for the available savings dollar, especially for four-year deposits on which there is no interest ceiling," he said.

[From the Washington Post, July 15, 1973]

FED ASKS PENALTIES ON BANK CD SHIFTS

(By James L. Rowe, Jr.)

The Federal Reserve Board yesterday proposed a rule that would impose penalties on bank depositors who wish to transfer their funds from one type of certificate of deposit to another.

The proposed rule, which is open for comment until August 13, would parallel penalties faced by those putting their funds into CDs at savings and loan associations.

A CD is essentially a receipt for money left on deposit for a certain period of time. CD rates are generally higher than passbook rates.

For example, under new rules put forth earlier this month by the nation's financial regulatory agencies, a bank or savings and loan association may offer unlimited interest provided the depositor leaves at least $1,000 on deposit for four years.

If a depositor withdraws the money before four years—there are different rate ceilings for different maturities—he is paid only the passbook rate minus a three-month penalty. The passbook ceiling at banks is 5 per cent.

However, if a bank depositor should wish to move his funds from one CD to another—say to take advantage of higher interest rates or shorter maturity—he now is not considered to have withdrawn his funds and thus pays no penalty.

At an S&L, however, he is considered to have withdrawn his funds and pays the penalty.

The proposed rule would force the bank depositor to pay a three-month interest penalty and receive only the passbook rate if he withdraws his funds before the stipulated maturity on the CD.

The differences in the penalty clauses had caused some controversy in the financial industry because of the newly introduced, consumer-sized CD with no interest ceiling and because the interest differential on passbook accounts between S&Ls and banks had narrowed to 0.25 per cent from 0.5 per cent.

[From the Washington Post, July 27, 1973]

FED CURBS AMOUNTS OF UNLIMITED CD'S

(By James L. Rowe, Jr.)

The Federal Reserve Board yesterday ruled that banks may not have more than 5 per cent of their total time and savings deposits in the new, unlimited interest, consumer-type certificates of deposit.

The board also proposed a new rule that would require banks to advertise to customers that, if they redeem a certificate of deposit before the specified maturity date, they must pay penalties.

The moves appear to be an attempt to calm savings and loan associations, who complain that they cannot afford to compete with banks on interest rates on the unlimited CDs.

The CD was created to slow the process called disintermediation—where investors take their money out of banks and S&Ls and put it instead into better-yielding investments such as government securities.

The new certificates of deposit must be in minimum amounts of $1,000 and bear a maturity of at least four years.

The board said it placed the 5 per cent restriction on the amount of the new CDs any bank could offer "to provide for the introduction of these new savings instruments at a more orderly pace." It said that any four-year CD a bank sells beyond that limit is subject to a 6.5 per cent interest ceiling.

Savings and loan associations have been prohibited from having more than 5 per cent of their savings capital in these unlimited-interest CDs since the new instruments were created July 5.

The Fed sets interest ceilings on various typs of deposits for national banks, the Federal Deposit Insurance Corp. does so for other commercial banks and mutual savings banks, while the Federal Home Loan Bank Board sets the ceilings for savings and loan associations.

Most S&Ls in the area are offering 7 per cent a year on the four-year CDs—although some are offering more—while banks tend to pay about 7.5 per cent.

In addition to advertising penalties involved in redeeming any CD before maturity, the Fed said banks must give customers making such deposits a statement specifying the penalties.

The penalty is a recomputation of the interest rate to the passbook rate (5 per cent for banks, 5.25 per cent for S&Ls) plus a three-month interest penalty. On Wednesday the Fed proposed a rule that would require banks to charge the penalties if a customer decided to convert one CD to another type of CD.

[From the Wall Street Journal, Aug. 3, 1973]

PHILADELPHIANS SNAP UP SAVINGS CERTIFICATES PAYING HIGHER RATES

(By Harry B. Anderson)

PHILADELPHIA.—On Thursday, July 26, Western Savings Bank began selling its new "super eight" savings certificate, an 8% certificate of deposit geared to take advantage of new federal interest regulations. It began running newspaper ads last Sunday, and the ads are still running today.

But don't bother to run down to Western to buy your super eights. Within six business days the bank had "sold out." Not that the bank didn't have any more certificates to sell. It had just bumped up against a federal regulation that prevents banks from issuing such high-interest certificates in amounts more than 5% of total savings deposits.

"It was like a madhouse in our office," said a bank spokesman. "We even had to install one of those take-a-number machines like you find in bakeries."

EAGER BUYERS

Philadelphia banks were quick to take advantage of the new federal regulations that allowed them to pay unlimited interest on four-year savings certificates with minimum face values of $1,000. But Philadelphia savers were even quicker to buy them up.

"Our lobby was filled with people all week," said an official of Philadelphia Savings Fund Society. "We had to set up special chairs because many of the pople who came in were older people, and it's a time consuming transaction" to buy the certificates.

The sales rush created special problems for some bankers. An official for First Pennsylvania Banking & Trust Co. said the bank didn't receive a copy of the 5% regulation until early yesterday, but it may have exceeded its permitted sales quota of its variable interest "inflation fighters," before that time. He said officials were hurrying to determine if that was so. In the meantime, he said, "we don't want to shut off" the marketing effort. But he said First Pennsylvania was in a "touchy" position.

First Pennsylvania offers savers a certificate that pays interest at a base rate of 7½%, with variable additional interest paid each year on the basis of increases in the cost-of-living index. However, the First Pennsylvania official said that if the bank exceeds its sales quota, it will only be able to pay new savers 6½% until the bank has received enough other new deposits to bring it within federal guidelines. Savers who bought the certificates before the quota was reached will still receive 7½%.

ESTIMATED SALE

When First Pennsylvania introduced its new certificates, it said it expected to sell up to $100 million in the first year. But the bank official said sales were proceeding at an "extremely greater rate."

Despite the sales rush, Philadelphia banks aren't gaining huge amounts of new deposits. A marketing official of one savings bank that expects to reach its sales quota today said, "Our customers have been surprisingly sophisticated." He said many depositors have been withdrawing their money from regular savings accounts to buy the new certificates. "We're just paying more interest for the same money," he said.

In New York yesterday, the Bowery Savings Bank, the nation's largest, said it is approaching its 5% limit on the four-year certificates. The bank said it intends to stop advertising the certificates to the public soon.

[From the New York Times, Aug. 10, 1973]

HOME LOAN BOARD PAINTS GLOOMY MORTGAGE PICTURE

(By Edwin L. Dale, Jr.)

WASHINGTON, August 9.—The agency of the Government most closely involved with home-mortgage finance today painted a grim picture of the current mortgage situation: interest rates of 9 per cent or more, money rushing out of the thrift institutions, which are the main mortgage lenders, and some danger of a drying up of mortgage money at any price.

The report came at a news conference from Thomas R. Bomar, chairman of the Federal Home Loan Bank Board, and William Popejoy, head of the Federal Home Loan Mortgage Corporation, a related agency.

Mr. Popejoy said that the "real mortgage market today is around 9 per cent and perhaps more." He readily conceded that the agency's official statistics—which reported a nationwide average mortgage rate of 7.84 per cent in early July—were not giving an accurate picture of the present situation.

Mr. Bomar disclosed that, based on a sample of savings and loan associations, there was an outflow of about $500-million of savings last month, mainly on the part of savers seeking higher interest rates on such "money market" investments as United States Treasury bills. He said the outflow "is continuing in August."

Last year the thrift institutions had a record inflow of savings. The inflow continued at a high, though diminishing, rate in the first part of this year until the dramatic increase in market rates began. The large inflow of savings last year was a major reason for a record rate of housing starts since mortgage money was plentiful and relatively cheap.

Housing starts this year are already trending downward, though in June they were still at the relatively high annual rate of 2.1 million units.

Although the savings outflow in July of

$55-million was large, it did not approach the monthly peak outflows of more than $1-billion reached in the previous interest-rate "crunch" periods of 1966 and 1969. In those years there was a scarcity of lendable funds even at high interest rates.

Mr. Bomar said today that "in most parts of the country mortgage money is still available, though at a higher rate." However, he said there was a general "slowing down" of new mortgage loan commitments, a "greater conservatism" on the part of the thrift institutions because they were losing savings deposits.

To help to assure the availability of mortgage money, Mr. Bomar said, the 12 Home Loan Banks under his agency's supervision are in the process of extending a record amount of "advances," or loans, to savings and loan associations, which relend the money to private mortgage borrowers.

Yesterday the Home Loan Bank System announced a record borrowing operation in the money market of $1.8-billion, paying a record interest rate of 9¾ per cent, to raise funds for more advances to the savings associations.

The Home Loan Bank Board has also freed about $2.2-billion in mortgage funds by reducing the required "cash reserves" that savings and loan associations must retain.

Mr. Bomar disclosed today the first results of yet another effort to help maintain the availability of mortgage funds: the action by all the Federal financial regulatory agencies a month ago to permit higher interest rates to be paid to savers. The new package of allowable savings instruments included the so-called "wild card", a four-year savings certificate with no ceiling on the interest rates.

A sample of 273 mainly large savings associations, Mr. Bomar said, had issued $1.4-billion in "wild card" certificates by the end of July, amounting to 1.75 per cent of total savings in these institutions.

The interest rates offered clustered in the range of 7 to 7.5 per cent, with only a tenth of the associations offering more than 7.5 per cent.

Assessing how much the wild-card certificates may have helped the savings associations to retain deposits, Mr. Bomar said that "in this particular situation it does make possible retention of some funds that would otherwise be lost."

But both he and Karl O. Camp, a member of the Home Loan Bank Board, said that market interest rates had gone so high that there was no way of preventing some outflow of savings. They noted that the average interest income on the $220-billion of mortgages held by the savings and loan associations was 7.2 per cent, which set an effective ceiling on how much they could pay to attract new savings.

The new wild-card certificates are limited to 5 per cent of total savings. The ceiling interest rate on ordinary passbook savings is only 5¼ per cent.

[From the New York Times, Aug. 22, 1973]

FUNDS BEING LOST BY SAVINGS UNITS

(By Edwin L. Dale, Jr.)

WASHINGTON, August 21.—Evidence is mounting that the decision of the Federal Reserve Board and other agencies in early July to raise the ceilings on interest rates that banks and thrift institutions can pay to savers is having a result that nobody in the Government wanted—a switch of funds out of the savings institutions into commercial banks.

This is quite apart from the companion problem of withdrawal of funds from all deposit institutions to invest in market instruments such as Treasury bills.

To the extent that savings and loan associations and savings banks lose money in either way, the impact falls on the mortgage market, where they are the major source of funds. The latest sampling of 2,200 builders conducted by the National Association of Home Builders, a spokesman said today, shows that mortgage money is either not available at all or shows greatly reduced availability in 75 per cent of the areas surveyed.

EVIDENCE IS INDIRECT

Although no precise figures are available, officials of all the Government agencies involved agree that some of the large amount of money that has left the thrift institutions in July and August has gone, not into the market, but into commercial banks. The evidence is indirect.

First, the thrift institutions lost about $1-billion in July. Based on industry estimates, the savings and loan associations lost another $400-million in the first 10 days of August.

But during this same period, time and savings deposits at commercial banks—not including the large certificates of deposit of $100,000 or more dealt in by corporations and other large and temporary savers—have risen more than $3-billion.

These deposits were $285.8-billion in the week ended Aug. 8 compared with an average of $282.3-billion in the four week ended July 11.

Commercial banks are far less heavily engaged in home mortgage lending than the thrift institutions.

"WILD CARD" CERTIFICATES

All types of institutions were allowed to raise the interest rates paid to savers, and all were allowed to offer the new "wild card" certificates—those with a minimum maturity of four years and no interest ceiling.

There are no comprehensive records of whether banks are paying more on these certificates than savings and loans, which could help account for some of the switching of funds.

However, officials have a general impression that banks have been more "aggressive" in this area and probably began to advertise the new certificates first.

One high official of the Federal Reserve, trying to explain the unwanted switching, said today, "The facts are terribly confusing. We just don't know the whole story."

In any case, there is a strong conviction in the home-building and savings and loan industries that the early July decisions have done more harm than good. The higher ceilings were intended at least to reduce the flow of funds out of the deposit institutions into the market.

Michael Sumichrast, chief economist for the National Association of Home Builders, commented today, "If they had left it alone we [meaning the thrift institutions] would have lost some money, sure. But I'm convinced we're losing even more because of the July decisions, including money lost to the commercial banks."

Mr. Sumichrast also complained that an immediate impact of the higher interest ceilings was a jump in mortgage interest rates, quite apart from the problem of availability of mortgage funds. Prior to the higher ceilings, mortgage rates had been edging up only very gradually, he noted.

[From the Washington Post, Aug. 28, 1973]

NOT DRAINING S. & L. FUNDS, BANKERS SAY

The Americans Bankers Association said yesterday that a survey of 110 banks indicated that banks are not draining a substantial amount of deposits from other financial institutions, such as savings and loan associations.

Representatives of S&Ls and mutual savings banks have claimed that banks are bidding funds away from them in an interest rate war spawned by increases in interest ceilings put down by the nation's financial regulatory organizations on July 5.

On that day, the interest rates that banks, S&Ls and mutual savings banks may pay depositors was increased and the differential on passbook savings rates was narrowed to a quarter point from a half point. Banks are now permitted to pay 5 per cent interest, while thrift institutions can pay 5.25 per cent.

The most controversial aspect of the ceiling change was the introduction of a consumer-sized certificate of deposit which bore no interest ceiling. The consumer was required to put a minimum of $1,000 on deposit for four years.

Eugene Adams, president of the American Bankers Association, said 93 of 110 bankers on the ABA's governing council responded to a survey on the effect of the new interest ceilings.

Adams said 60 reported "modest gains in savings and time deposits. In each case, all or virtually all the gain was attributed to transfers from other bank accounts, although 25 bankers said very small portions of their increases came from savings and loan associations or mutual savings banks."

He said 67 reported decreases in passbook savings deposits since July 5.

[From the Wall Street Journal, Aug. 30, 1973]

SALES OF 4-YEAR CD'S SPURT AFTER REMOVAL OF INTEREST CEILINGS

WASHINGTON.—The nation's large commercial banks have dramatically increased their sales of four-year certificates of deposit since the removal of interest-rate ceilings on the certificate at the beginning of July.

The Federal Reserve Board said the large banks that report to it on a weekly basis had $2.13 billion of CDs outstanding Aug. 22, up from $321 million June 27.

While individual banks have been reporting considerable success in marketing the CDs, this was the first time official figures have been available. They show that commercial banks picked up a big chunk of the deposits attracted by higher interest rates.

In an effort to allow banks to compete for funds with rising interest rates in marketable securities, all interest-rate ceilings were relaxed for savings and loan associations, savings banks and commercial banks early in July. The ceiling was removed entirely for four-year CDs of $1,000 or more. Previously, the maximum rate commercial banks could pay on four-year CDs of less than $100,000 was 5¾%.

[From the Wall Street Journal, Aug. 30, 1973]

S&L's LAST MONTH HAD $313 MILLION SAVINGS OUTFLOW

WASHINGTON.—The nation's savings and loan associations reported their first net outflow of savings in over three years and were given some new flexibility to help deal with the problem.

The Federal Home Loan Bank Board said federally insured S&Ls experienced a $313 million net withdrawal of savings in July, compared with a $890 million net savings inflow in June and a $2.16 billion inflow in July a year earlier. The last previous outflow was in January 1970 and totaled $1.4 billion.

In a move aimed at stemming such outflows, the agency raised to 10% from 5% the limit on the amount of an S&L's total deposits that can be in the form of certificates representing deposits of $100,000 or more left for a specific period. The certificates of deposit aren't subject to interest rate ceilings, and the bank board said the relaxed restriction would enable more S&Ls to compete for the large deposits.

The board said the additional large deposits "will provide a potential increase in the funds currently available for mortgage

lending." Because of the net savings outflow last month, S&Ls sharply reduced their commitments to make mortgage loans in the future, the bank reported. Commitments outstanding were down to $13.45 billion at the end of July from $14.45 billion at the end of June, the report showed.

The volume of loans closed during July remained high, however, because S&Ls were able to borrow $1.2 billion from the Federal Home Loan Banks and obtained additional lendable funds by reducing their holdings of liquid assets, the board said.

Mortgage loans closed last month came to $4.89 billion, the bank board reported, down 12% from June's $5.59 billion but 10% above the year earlier $4.45 billion. The month-to-month decline was less than the usual seasonal drop, the board said, adding that on a seasonally adjusted basis the amount of loans closed "remained close to earlier peaks."

Net loan repayments, at $2.5 billion, were down from June's record of $2.65 billion but exceeded the $2.28 billion of July 1972.

The savings outflow was attributed primarily to further sharp increases in interest rates on marketable securities, to which savers switched their funds, and "may also have reflected intensified competition for savings from commercial banks," the board said. Currently, commercial banks are allowed to pay up to 5% interest on regular passbook savings accounts, and S&Ls may pay 5¼%. Before these ceilings were set early last month, the difference between the two rates had been a full percentage point.

At a news conference earlier this month, Bank Board Chairman Thomas R. Bomar predicted that the July savings outflow would be an even more severe $500 million. He explained that the early estimate was based on reports from a sample of generally large associations, located in major metropolitan areas, "whose deposits were more sensitive to the competition from securities and commercial banks."

At the news conference, bank board officials had promised to try to assure an adequate supply of funds for mortgage lending, but they predicted that rates would continue to climb. At that point, they said that surveys showed mortgage rates in many parts of the country were running 9% or more.

[From the New York Times, Aug. 30, 1973]

LOAN CURBS EASED FOR THRIFT GROUPS

(By Edwin L. Dale, Jr.)

WASHINGTON, August 29.—The Federal Home Loan Bank Board, in another move to check the sharp decline in availability of mortgage money for home buyers, decided today to allow savings and loan associations to offer more large certificates of deposit—those of $100,000 or more with no interest ceiling.

However, bank board officials readily conceded they had no idea how much good this new move would do in holding funds in the thrift institutions. An outflow of savings from the savings and loan associations by savers seeking higher interest rates elsewhere has been the chief single contributor to the sudden drying up of mortgage money.

Today's move permits savings and loan associations to offer large certificates of deposit up to 10 per cent of their total savings compared with 5 per cent previously. Thomas R. Bomar, chairman of the Home Loan Bank Board, said that "many" associations "are presently being hindered from competing for large savings deposits by the 5 per cent limitation."

AN ABRUPT TURNAROUND

In a companion development, Mr. Bomar disclosed that the outflow of savings from the savings and loan associations in July had not been as large as originally estimated. However, the loss of savings was the first since January, 1970, and was sufficient to induce a sharp drop in new mortgage lending commitments by the associations they are the largest single source of mortgage funds.

The July outflow, Mr. Bomar said, was $313-million, less than the preliminary estimate of $500-million made several weeks ago.

In July a year ago there was a net savings inflow of $2.2-billion and there was still some inflow, amounting to $900-million, as recently as June of this year. Thus the turnaround has been abrupt.

The July loss of savings—known as "disintermediation" as money leaves deposit institutions for investment in money market instruments—was well below the outflows of similar periods of high market interest rates in the past. For example, there were net outflows of $1.1-billion in July, 1969, and $1.5-billion in July, 1966.

With mortgage loans closed exceeding commitments for new loans, Mr. Bomar said, outstanding commitments dropped by $1-billion to $13.5-billion. On a seasonally adjusted basis the volume of commitments was down 14 per cent from the peak attained earlier this year when funds were still readily available.

FIRST FEDERAL SAVINGS & LOAN
ASSOCIATION OF CORVALLIS,
August 3, 1973.

Senator BOB PACKWOOD,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: Undoubtedly you have been advised of the effects recently initiated by the Federal Reserve Board and subsequent like action by the Federal Home Loan Bank authorizing higher rates of interest to be paid by savings and loan associations.

We at First Federal feel this was an ill-advised move because of the upward pressure that has been placed on financing for local housing.

The prime item causing this upward movement is the four-year, $1,000 minimum, no maximum rate account which, as indicators show, has been leading to a savings rate war. It is impossible, of course, for savings and loan associations to match rates paid by commercial banks without charging high rates and fees for home loans.

We also feel that this particular "wild card" account will have an adverse effect on small savings and loan's profitability since short-term certificates are not salable and associations will be forced to pay high rates of interest even when other markets drop.

The recent regulations concerning savings rates for savings and loan associations need to be reviewed again and, hopefully, revised. I would appreciate any input you might be able to pass along to your colleagues on our behalf.

Sincerely,

T. W. JOHNSON,
President.

CORVALLIS BOARD OF REALTORS,
Corvallis, Ore., August 27, 1973.

Senator BOB PACKWOOD,
Portland, Oreg.

DEAR SENATOR PACKWOOD: I am writing on behalf of the Corvallis Board of Realtors regarding the movement upward in Savings & Loan rates with no rate ceilings on funds deposited for four years or longer. We feel this is both dangerous and confusing.

We are alarmed and fearful of the results if this practice is allowed to continue. This continuance can only contribute to the inflationary trend threatening our country today. At a time when money flow is needed in our economy, we deplore the practice of out-of-control celings on rates.

The average person wishing to purchase a piece of property is penalized drastically by the catapulting interest rates. Something must be done at once to put a stop to this unfair and chaotic situation.

We urge you to investigate this matter immediately. This practice must not be allowed to continue.

Very sincerely yours,

Mrs. MARY ANNE NARDELLO,
Executive Secretary.

OREGON PIONEER
SAVINGS AND LOAN ASSOCIATION,
Portland, Oreg., August 29, 1973.

Senator BOB PACKWOOD,
1002 N.E. Holladay,
Portland, Oreg.

DEAR BOB: Your request to Arthur Burns for the elimination of the Wildcard bank certificates is most appreciated.

I sincerely feel that the money and mortgage loan situation in this country is much worse than perhaps is realized in Washington, D.C. If the current condition continues for any period of time not only will many deserving people be deprived of purchasing a home but many contractors, sub-contractors and laborers will be badly harmed or bankrupt.

Thank you for taking the position that you have. I'm sure that you will pursue the matter when you return to Washington.

Sincerely,

WARD V. COOK,
Executive Vice President.

PIONEER FEDERAL SAVINGS
AND LOAN ASSOCIATION,
Baker, Oreg., August 29, 1973.

Senator BOB PACKWOOD,
Senate Office Building,
Washington, D.C.

DEAR SENATOR PACKWOOD: Dave Barrows has advised me of the interest and support you have shown in our current problem with the new "wild card" savings certificate recently prompted by the Federal Reserve. I would like to take this opportunity to thank you for your support.

As you may know, the U. League's Legislative Committee will be meeting in Washington in a couple of weeks relative to this matter, at which time some of the Oregon people will probably be talking with you again.

Yours very truly,

CARL DAVIS, *President.*

LINCOLN SAVINGS
AND LOAN ASSOCIATION,
Beaverton, Oreg., September 5, 1973.

Senator BOB PACKWOOD,
U.S. Senate, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR SENATOR PACKWOOD: I would like to add our thanks to you for your letter of August 2, 1973 to Arthur Burns regarding the "wild card" certificates. I have also discussed your kind offices on behalf of our industry with our directors and they join me in their appreciation of your efforts.

At the present time we are completely out of the mortgage loan business. Such funds that we do generate that normally would go into mortgage lending are now used to repay our Federal Home Loan Bank loan with a recently increased rate of 9¼%. To get additional funds to lend we cannot compete with "wild card" rates because the money thus gained would be so dear that I have serious doubt that our mortgage borrowers could sustain the high interest rates that we would have to charge. The fun and the reward in this business is helping people buy and own a home. To charge the kinds of rates we are facing would only lead them into financial disaster. Such a situation is bad for both the borrower and lender. Again thank you for your help with this problem.

Our Fourth of July trip in the balloon at Hillsboro was a success. Join us sometime.

DONALD W. HIRSCHBERGER,
President.

S. 2454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall, in exercising the authority given to each under the Act of September 21, 1966 (Public Law 89-597), as amended, to prescribe rules governing the payment of interest or dividends on deposits, shares or withdrawable accounts that may be paid by any depositary institution as defined in Section 2(b) of the Act of August 16, 1973 (Public Law 93-100), limit the rates of interest or dividends which may be paid by such institutions on time deposits in amounts of less than $100,000 so that (i) the rate of interest or dividends payable on such deposits may not exceed 6¾% per annum and (ii) the rate of interest payable on such deposits held by an insured bank or any State bank (each as defined in Section 3 of the Federal Deposit Insurance Act) shall be limited by an appropriate differential below 6¾% for each class or category of deposit comparable to those issued and held by any depositary institution other than an insured bank or State bank.

S. 2465

At the request of Mr. FANNIN, the Senator from Arizona (Mr. GOLDWATER), the Senator from New Mexico (Mr. DOMENICI), and the Senator from South Dakota (Mr. ABOUREZK) were added as cosponsors of S. 2465, a bill to authorize the Secretary of the Interior to guarantee loans for the financing of commercial ventures in geothermal energy; to coordinate Federal activities in geothermal energy exploration, research, and development, and for other purposes.

SENATE RESOLUTION 173—SUBMISSION OF A RESOLUTION TO REDUCE THE PAPERWORK BURDEN ON SMALL SECURITIES BROKERS

(Referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. McINTYRE. Mr. President, I submit for appropriate reference a Senate resolution directing the Securities and Exchange Commission to immediately begin an examination of its rules and regulations and make such amendments as may be appropriate in order to reduce unnecessary and duplicative paperwork on small broker-dealers. The resolution also directs the Securities and Exchange Commission and the various securities industry self-regulatory bodies to continue a review of the position of small broker-dealers to insure their continued participation in the securities markets of the United States.

Independent broker-dealers play a unique and essential role in our economy. Historically, they have engaged in the marketing of securities to individual small investors. They provide local and regional securities facilities in many areas of the country not served by large New York City firms. They raise capital for small businessmen who, because of their size, are often ignored by the Wall Street giants.

The Subcommittee on Government Regulations of the Senate Select Committee on Small Business held hearings into the Federal paperwork burden on small broker-dealers on July 12 and 23, 1973, and compiled a sizeable record. This showed that small broker-dealers are suffering extreme hardships imposed by the paperwork and reporting requirements of the Securities and Exchange Commission, the National Association of Securities Dealers, and other self-regulatory organizations.

As a result of nearly 40 years' regulation by the Securities and Exchange Commission and self-regulatory organizations, certain overlapping and duplicative reporting requirements have come into existence. Today, in 1973, it is clear that they pose an unnecessary burden on the small broker-dealer who is subject to them. The problem is significantly stated by two small broker-dealers in Wisconsin and New Jersey. From Wisconsin, a small broker-dealer writes:

We are . . . essentially a Small Business. Our dollar volume is not in the millions, our staff is not in the hundreds (or even dozens), and our profits are only reasonably moderate. Yet we are faced with an elaborate labyrinth of regulations that threaten our very survival. Indeed we are convinced that if we do not have some relief from excessive regulation, we will soon have to say to the Chairman of the SEC, as the Christians said to the Roman Emperor when the lions bounded out. "Nos morituri te salutamus!"

Similarly, a New Jersey small broker-dealer expressed his feelings as follows:

As a small broker-dealer the past 14 years, we have tried to provide our 2,000 clients the service we feel necessary to build a long time investment program. The past six years have proven most discouraging to us as regulation after regulation has put an extreme burden on us with the reporting requirements from the various regulatory agencies.

As an independent broker-dealer, I have prided myself on the personalized service and individual attention offered to my clients, yet we are made to feel like second class citizens to the exchange members. We are not authorized to guarantee signatures, but must rely on the whim of a local bank at cost of both time and money. Many of my contemporaries, unable to bear the cost of the paperwork burden, have quietly left the business. Just trying to interpret the regulations and reports asked for is a major task in itself. The duplication of information asked for by various agencies also lends to the problem.

No one can deny that the securities industry requires regulation to insure honesty and fair treatment of the investing public. We are confident that there is no rule, regulation, procedure, or report that does not in some degree reflect an attempt to protect the investor. Each in its own way is a credit to the earnest people who created it, and we all would find it difficult to dispute its ultimate objective. The critical dilemma, however, is how to keep the hand that helps and protects the public from strangling the small broker in the process.

During the course of our hearings, we asked the Securities and Exchange Commission for an explanation as to how these serious paperwork and reporting problems began. Mr. Lee A Pickard, Director of the Division of Market Regulation, advised our subcommittee that:

During the late 1960's there occurred an unprecedented and unanticipated explosion in the volume of securities transactions. In 1964 the average daily volume on the New York Stock Exchange was under 5 million shares and was projected by the Exchange to reach 9 to 11 million shares per day by 1975. However, by 1967, 15 million share days were not uncommon and even 20 and 30 million share days were experienced. The existing systems were overburdened, resulting in a collapse of accounting control and the consequent failure of a number of firms with resultant customer losses. The cyclical nature of the industry soon became apparent, for as systems were expanded to add capacity to accommodate the higher activity, the trading volume dwindled away leaving high fixed costs with diminished revenues to sustain them causing further difficulties. As the financial crisis unfolded it became obvious that there were too few existing tools to fully gauge the impact of these events.

In the effort to monitor the industry more closely to minimize the public exposure as a result of firm financial difficulties, each of the self-regulatory organizations and the Commission imposed additional reporting requirements and recordkeeping procedures. Annual audited reports were supplemented with unaudited quarterly and, in the case of exchange members, monthly reports. In imposing these new reporting requirements, however, not enough attention was given to coordination and standardization.

The Securities and Exchange Commission in September 1972 appointed an Advisory Committee on Broker-Dealer Reports and Registration Requirements to study the problem of duplicative and excessive paperwork on broker-dealers. The Advisory Committee found that "present regulatory reports submitted by broker-dealers require duplication of efforts by firms and regulators."

The Advisory Committee made two recommendations relating primarily to duplication of reports:

(a) In each area subject to regulation a broker-dealer should report to a single regulatory body.

(b) There should be developed a single key regulatory report incorporating uniform definitions and reporting periods. Inherent in the format of this report should be the layering concept whereby higher increments of detail are required as the complexity of a broker-dealer's operations increases.

The Securities and Exchange Commission is now considering the recommendations of this Advisory Committee report.

I feel it is necessary for the Senate to go on record to actively encourage the Securities and Exchange Commission to not only consider and implement the recommendations in this report, but to take whatever other steps might be necessary to insure the survival of small securities broker-dealers. The importance of this group of small businessmen who contribute to the health of the economy by serving the needs of small investors and small businesses by raising capital to finance new ventures, is obvious to all. The small broker-dealer must not be eliminated by excessive or duplicative regulations.

Mr. President, I urge the Senate to press for early consideration of this resolution. I also urge other Senators to join me in this effort by cosponsoring this endeavor. This will present a very clear message to the Securities and Exchange Commission and all of the self-regulatory organizations that this body believes the

small broker-dealer is essential to the competitive and economic health of our Nation, and that affirmative action should be undertaken to insure his continued survival in the marketplace.

The resolution is as follows:

SENATE RESOLUTION 173

Resolved, it is the sense of the Senate of the United States in Congress assembled, that the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the United States' securities markets.

Whereas, pursuant to the Securities Exchange Act of 1934, as amended, the Congress of the United States vested in the Securities and Exchange Commission and self-regulatory organizations authority to regulate broker-dealers in the public interest, including small broker-dealers; and

Whereas, certain rules and regulations of said Commission and the self-regulatory organizations may impose duplicative paperwork burdens upon the broker-dealer community without a commensurate benefit to the public interest; and

Whereas, certain paperwork burdens imposed on broker-dealers by rules and regulations designed to eliminate abuses may create a disproportionate burden when applied to small broker-dealers due to the basic disparity in financial and management capability between large and small brokerage firms; and

Whereas, the Commission had submitted to it in December 1972 an SEC Advisory Committee Study which urged the elimination of all redundant and unnecessary paperwork and rcommended the establishment of uniform reporting forms and registration requirements; Now Therefore, be it

Resolved, by the Senate of the United States of America in Congress assembled, That the Securities and Exchange Commission be directed to review and, if necessary, amend its rules and regulations to assure that such rules and regulations take cognizance of the role of small broker-dealers in the United States' securities markets and permit such broker-dealers to effectively comply with the rules and regulations in the public interest without unnecessary administrative burdens; that it continue active consideration and implementation of the recommendations of the SEC Advisory Committee Study; that it continue to review the position of the small broker-dealer to insure the continued participation of such firms in the securities markets of the United States within the context of competitive policy and the protection of investors; and that it immediately proceed to examine and modify its rules and regulations to the extent it is found that the public interest is not commensurate with the burden imposed on small broker-dealers.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 172

At the request of Mr. DOMENICI, the Senator from Nebraska (Mr. CURTIS), the Senator from Delaware (Mr. ROTH), and the Senator from Minnesota (Mr. HUMPHREY) were added as cosponsors of Senate Resolution 172, a resolution relating to the passthrough of gasoline and diesel fuel grade No. 2 cost increases under the Economic Stabilization Act of 1970.

FOREIGN ASSISTANCE ACT OF 1973—AMENDMENT

AMENDMENT NO. 539

(Ordered to be printed and to lie on the table.)

Mr. BROOKE. Mr. President, on behalf of myself and Senators HUMPHREY, JAVITS, MCGEE, MCGOVERN, MOSS, HATHAWAY and TUNNEY, I am today introducing an amendment to the Foreign Assistance Act of 1973 which would authorize the appropriation of funds to be used as a grant to the Albert Schweitzer Hospital in Lambarene, Gabon. This money would aid in the construction of a leprosy rehabilitation wing for that facility.

I ask unanimous consent that the full text of this amendment be printed at this point in the RECORD.

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

AMENDMENT NO. 539

At the end of the bill, add the following new section: Sec. 24. There are authorized to be appropriated to the President for fiscal year 1974, $1,000,000 to make grants, on such terms and conditions as he may specify, to the Albert Schweitzer Hospital in Gabon.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974—AMENDMENT

AMENDMENT NO. 540

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted an amendment intended to be proposed by him to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

AMATEUR ATHLETIC ACT OF 1973—AMENDMENT

AMENDMENT NO. 541

(Ordered to be printed and to lie on the table.)

Mr. EAGLETON submitted an amendment intended to be proposed by him to the bill (S. 2365) to regulate interstate and foreign commerce as it relates to the conduct of organized amateur athletic competition within the United States and the participation of American athletes in international amateur athletic competition.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 476

At the request of Mr. GOLDWATER, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 476, intended to be proposed by Mr. GOLDWATER to the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

Mr. HOLLINGS. Mr. President, due to an inadvertency, my name was not included on the Goldwater amendment No. 476, directing the Secretary of Defense to conduct a study to determine the desirability and feasibility of merging the Air Force Reserve and the Air National Guard, when it was considered by the full Senate today.

I ask unanimous consent that my name be added to this amendment as a cosponsor.

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

AMENDMENT NO. 494

At the request of Mr. HARTKE, the Senator from Kentucky (Mr. COOK) and the Senator from Maryland (Mr. BEALL) were added as cosponsors of amendment No. 494, intended to be proposed to the bill (H.R. 9286), the Department of Defense appropriation authorization bill.

NOTICE OF CHANGE OF HEARING DATE ON OIL AND GAS DEVELOPMENT IN SANTA BARBARA CHANNEL

Mr. METCALF. Mr. President, because of the holiday on October 8 I wish to inform all Senators and other interested persons that the hearings on S. 1951 and S. 2339, both dealing with the Santa Barbara Channel situation, previously scheduled for that day will be held on Tuesday, October 9. The hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

ADDITIONAL STATEMENTS

PLIGHT OF THE RAILROADS

Mr. HUGH SCOTT. Mr. President, the need for helping our Nation's railroads cannot be overstated. In a September 10, 1973, editorial, "Plight of the Railroads," the *Titusville Herald* described in detail both the great need for improving and maintaining our rail system and the "miserable financial shape" the railroads are in. As we in Government sit down to try to devise the best way to save our railroads, we must look at the greater use of railroads as an efficient system of freight transport that at the same time conserves fuel during this time of energy shortage.

Mr. President, I ask unanimous consent that this perceptive editorial be printed in today's RECORD.

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

PLIGHT OF THE RAILROADS

American railroads had a record freight-hauling year in 1972 and are doing better

this year. But with a few exceptions, most of them are in miserable financial shape. In spite of the freight boom they can't afford to maintain their tracks, install new signal facilities or buy all the new cars they need.

What's the trouble? The magazine Business Week puts the answer this way:

"The railroads cannot earn enough money to renew their facilities, partly because their rate structures are outmoded, partly because their physical assets have deteriorated, and partly because their accounting is as obsolete as their roadbeds."

Finding the correct answer to the problem of railroad survival is especially vital to towns like Titusville, where third-rate highways would be totally unable to carry the load of freight now handled by railroad.

Tightly pinched for money, the railroads are forced to operate in the wrong way. Take train lengths. Business Week reports:

The tendency on railroads today is to run long trains, since the labor costs are the same for a 10-car train as a 100-car train. But this means holding cars back until a long train can be assembled, and also delaying individual cars through repeated switching in classification yards. To an increasing degree, the U.S. economy requires exactly the opposite kind of transportation service; it is requiring quality transportation, not quantity."

As one shipper says. "We need transportation by the clock, not the calendar."

We have repeatedly stated that the government should by some means help restore the industry's plant. That job is estimated to require from $1.6 billion to $2 billion a year, small potatoes when compared with the 28-billion annually that the government spends on all other forms of transportation.

Everyone now realizes that this country is facing an energy shortage. Greater use of railroads is one of the best answers to this problem. At speeds above 6 miles an hour, railroads are the most efficient users of fuel in freight transportation. Energy consumption per ton mile, expressed in British thermal units, clearly shows this. Waterways are the most efficient with 500 BTU per ton mile. Railroads are only slightly less efficient with 750, pipelines use 1,850, trucks 2,400 and air freight 63,000.

The railroads need federal help—massive and right now—and the figures show they deserve it, hauling a record-breaking 780-billion ton miles in 1972.

THE NEED FOR REFORM OF FEDERAL REGULATION OF COMMODITIES MARKETS

Mr. McGOVERN. Mr. President, the absolute need for Congress to move forcefully to reform the regulation of commodities trading markets has never been so clear as it is today.

In a significant contribution to public understanding of the complex nature of the commodities futures markets, the Washington Star-News on yesterday began a three-part series of detailed articles on commodity trading. I would like to have the first in this series inserted in the RECORD at the conclusion of these remarks.

As the Senator from Georgia (Mr. TALMADGE), chairman of the Committee on Agriculture and Forestry, remarked to this body on September 10, the Commodity Exchange Authority "is supposed to maintain fair and honest trading prices, competitive pricing on commodity exchanges, and prevent price manipulation and wild speculation. It is an understatement to say that the Commodity Exchange Authority has not been able to carry out this function in the past year."

Farmers throughout this country have been baffled by the wild fluctuations in prices on the commodities market. I can tell my colleagues that farmers in my State are quite disturbed. A number of them have come to me with stories not unlike that of the Iowa farmer described so well by John Fialka in the first Star-News article.

It is good that many Members of Congress and the committees thereof are beginning to look in depth at the regulation of commodities markets. I believe that the time is ripe for complete overhaul of the system by which commodities markets have been regulated—or not been regulated according to one's viewpoint.

Mr. President, the grain trade recognizes this need. Farmers recognize the need. The academic community has recognized the need. Certainly consumers know something is awry.

In responding to this almost unanimously spoken need, Congress must give serious scrutiny to commodities trading regulation. We must come up with more than cosmetic reform. This subject will be one of the most important on the agenda for the second session of this Congress.

I ask unanimous consent that the article previously referred to be printed in the RECORD.

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

THE FOOD SPECULATORS

(By John Fialka)

MITCHELLVILLE, IOWA.—This is the year that George Redman, 33, learned the hard way that corn on paper is worth far more than real corn loaded on a truck.

The lesson was part of an experience that cost him over $60,000 and took him on an eerie voyage into the complex, nether world of commodity speculation.

But Redman is not alone now when he calls the buying and selling of contracts for future delivery of a farm commodity a "paper game."

A considerable number of his fellow farmers and the merchants who buy and sell real, cash commodities are becoming convinced that this year the theory and the realities of setting food prices have begun to go haywire.

It was no snake oil salesman who came into this prosperous (pop. 1,341) central Iowa farm town this spring and parted Redman and his money.

No, Redman admits, he brought that on himself. As a farmer, a man who has fed corn and soybeans to his cattle for over 12 years, Redman developed a strong notion this spring that the prices he was hearing on the afternoon radio reports were unrealistically high.

The voice of the Chicago Board of Trade, the nation's largest commodity exchange, is heard here over radios in tractor cabs, in cattle sales barns and other places where farmers work in the early afternoon, shortly after the trading day closes in Chicago.

Of late, the news has been unbelievable. In early June the radio said that the price of soybeans had gone to $12.90 a bushel, roughly six times what it costs the farmer to grow it.

In late July, Iowans heard about $3 (per bushel) corn, an unheard of price in a state where farmers have traditionally piled surplus corn to molder in thousands of metal storage bins and have even burned it during the winter because it was cheaper than coal.

These were the prices from the Chicago Board of Trade, an institution which describes itself as a national "thermometer" for future prices. These were the prices that the traders, men who broker orders for all the commercial and speculative interests who deal in futures contracts, had arrived at.

Redman was no stranger to the notion, common among Iowa farmers (see accompanying article) that futures contracts are really a "paper game" played by doctors, chiropractors and other well-heeled city folks who do not really know crops.

Nevertheless, some time this spring he decided to join in. As he remembers it, the notion came to him while talking with another farmer in a cattle barn. The fields this year were going to be chock full of soybeans, they decided, and a man could make some real money by speculating that the price was too high.

Sometime in April Redman drove to the R. G. Dickinson Co. brokerage firm in nearby Des Moines.

When Redman walked in the door he was joining a growing tide of people who speculate in food. They traded a record of $268.3 billion in futures contracts in fiscal 1973 ending last June 30 for such items as soybeans, pork bellies (uncured bacon) and live cattle. That is more than the $195.1 billion total of stocks traded during the same period and far more than the $75.5 billion worth which the U.S. Agriculture Dept. places on the entire 1973 harvest of crops and livestock.

"Speculation in commodity futures is frequently confused with gambling," notes a brochure distributed by the Chicago Board of Trade. The brochure points out that, unlike gambling, speculation serves a number of useful purposes in agriculture.

Among other things, commodity speculation pools money to provide an orderly market for commodities on a year-around basis. Soybeans, for instance, are traded for delivery in September, November, January, March, May, July and August.

The process, the brochure points out, evolved shortly before the Civil War to prevent enormous price fluctuations caused by the market glut during harvest and severe scarcity during the spring and summer. There, rooted in Chicago, grew a "central market for buyers and sellers of the new wealth of the prairie."

As Redman remembers it, his commodity broker, Bill Knight agreed with him about the soybeans. "He said 'damn, these beans are higher than hell.' They were around $5.52 a bushel then."

In commodities, it is as easy to make money when the market is going down as it is when the market is going up. In either case, the process is like making a bet on the worth of a future shipment of grain to Chicago.

For example, in January a speculator decides that the price being traded then for July corn futures is going to go higher. He orders his broker to "buy a contract," which amounts to a commitment to receive 5,000 bushels of corn in Chicago in July at the current, January price level, say $1.00 a bushel. This is called "going long."

If the price of July corn futures goes up to, say, $1.50 a bushel by June, the speculator nullifies his commitment by selling his contract to somebody else and pockets the difference, which amounts to 50 cents a bushel, or a $2,500 profit.

If the same speculator had decided in January that the price of July corn was going to drop, he would have ordered his broker to sell a contract, or to make an agreement to

deliver 5,000 bushels of corn to Chicago in July. This is called "going short."

Then, if the price of July corn dropped to, say, 50 cents a bushel by June, the speculator nullifies his obligation by ordering his broker to buy a contract at the going rate. Again, he pockets the difference, 50 cents a bushel, or a $2,500 profit. In either case the speculator, like the overwhelming majority of all speculators, has not dealt with actual corn, he's been trading in contracts.

Redman decided to go short on one soybean contract. He gave Knight the required margin, roughly 10 percent of the value, or $2,500. Then he sat back and waited, certain of his theory that soybeans, which had been traded for $2.50 a bushel for years, were going to drop.

This was to be the year, however, when theories often failed to work, as Redman discovered during a call to his broker later in the week.

"I said what's these beans doin'? He said, 'God Damn, they don't look too good. They're goin' up!"

Redman soon found himself riding up on the great, unbelievable soybean surge of 1973. Only he had bet they would go down.

By the end of May, the price for soybeans to be delivered in September had gone to $6.50 a bushel at the Chicago Board of Trade. The price appeared to be going straight up.

Redman went back to his broker. "So I told him, I says what the hell are we going to do? He said that about the only way we're going to get back in this ball game is to double up."

Redman said his broker then suggested that he go short on two more September soybean contracts. That way when the price of soybeans fell, Redman would recoup his losses faster.

Redman put down $5,000 margin for the two additional contracts. About that time the Chicago Board of Trade decided to raise the margin requirements in an attempt to cool the speculative fervor that had grown around soybeans. Redman had to put down $6,000 more on each of his three contracts.

And soybeans continued to go up every day. For a while, the Board of Trade had ruled that the price could only jump by 20 cents a day. Then, the board decided to raise the limit to 40 cents. For six or seven days in a row soybean contracts shot up the limit.

"I was getting pretty damn worried," recalls Redman.

Other people in Iowa, those who deal in the real, cash version of the commodities being speculated about in Chicago, had begun to worry too.

While the sharp surge in prices was a bonanza for some speculators and misery for others, it was beginning to cause chaos in a farm economy that had been accustomed to dealing with price fluctuations of a few pennies.

The usefulness of commodity speculation had begun to disintegrate in two ways: something was wrong with its price-predicting mechanism, and its protection against sudden price shifts was weakening.

The first of a long line of middlemen between the farmer and the people who push baskets in supermarkets is the country elevator operator.

If the elevator operator pays a higher price for such a basic commodity as corn and soybeans, the price increase is magnified and multiplied through the entire food chain until it confronts the consumer in, literally, thousands of places in the supermarket: in prepared foods, in cooking oil, in a myriad of meat and poultry products from animals whose feed comes from corn and soybeans.

How does the elevator know what price to set? He normally looks to the traders in Chicago for that information.

The theory, again from a brochure composed by the Chicago Board of Trade, is that the "cash basis at the country location is below the nearest futures price by the cost of freight to Chicago."

In other words, if a farmer had carefully saved his 1972 crop of soybeans and hauled them to a country elevator in late May, in theory he would have been offered around $12 a bushel (less freight) because that was where the traders in Chicago were pegging July soybeans.

In fact, however, he would have found that many Iowa elevator operators were not buying soybeans.

Argie Hall is director for the Farmers Grain Dealers Association of Iowa, a cooperative that represents 330 local elevators. Hall probably buys and sells more corn and soybeans than anyone in the state.

When July soybean futures were rocketing up to $12.90 a bushel in Chicago, Hall found that soybean processors dropped out of the market. He had no offers to buy soybeans.

For about two weeks, the cooperative's elevators were instructed not to buy soybeans because there was no market.

"That's hard to explain to a farmer," said Hall. "The price goes up to $12 and he goes in to sell and the elevator operator says nobody will buy them. This will occur again and again if we get runaway markets."

The risk-protecting function of commodity speculation also had begun to turn on the Iowa grain merchandisers. Traditionally, Hall and other grain buyers and processors who found themselves temporarily in custody of large amounts of grain had been able to avoid the risk of price fluctuations through a practice called "hedging."

In theory, the grain merchants would use the process Redman used. They would sell futures contracts covering the amount of soybeans they had on hand. Then, if the price of soybeans went down they would lose money on their stores of soybeans, but the loss would be offset by gains in futures speculation.

The hedge also works the other way. If the price of soybean futures rose, they would lose money on their futures speculation but would gain on the price of the real product, which would reflect the futures price increase.

Thus, in either case, the elevator operator or the grain processor relied heavily on commodity exchanges to shield them from price fluctuations.

This year, according to Hall, hedging turned into a "nightmare" during the frantic trading in Chicago.

There were days when the market hit the trading limit so fast that merchants could not get out of their hedges.

Hall and some of his member elevators were getting margin calls running into the millions in June. Country banks were running out of lending money. Thus, even on some days when there were buyers for soybeans, Hall had his money tied up in hedges and couldn't afford to buy any.

Yet the farmers had heard the siren call of big money. Around Mitchellville, viewed from the air, farmyards appear to be smaller this year, and the orderly rows of crops seem to be squeezing the roads.

For George Redman, however, the more pressing reality was now in Chicago. He decided to unload his three soybean contracts and accept his losses. He ordered his broker to buy three contracts for September soybeans. The going price, then around $9.40 a bushel, meant he would lose about $56,000.

He decided that he had to find some way to recover his loss. In early July, he began to watch the Chicago Board of Trade prices for July corn. It was running around $2.29 a bushel, a price which Redman, who had handled corn for over a dozen years in his cattle feeding operation, decided was "higher than hell."

Again, he drove in to R. G. Dickinson's brokerage house in Des Moines and told his broker Bill Knight to "go short." This time it was two contracts for July corn (10,000 bushels). He put up $13,000 in margin.

When the price of corn dropped, Redman planned to buy his two corn contracts and recoup some of his soybean losses.

But corn didn't drop. Phenomenal things began to happen to the price of corn, shooting it up the trading limit every day. Again George Redman was a worried man.

The impact of the heavy trading in corn futures, again also had an adverse impact on the marketing system for real corn in Iowa. According to Hall, the Grain Dealers Association increasingly found itself stuck in its hedges.

If a corn buyer wanted a cash price for his corn, Hall said he would have to add on 15 cents a bushel to cover the risk of not being able to compensate for the sale by removing a hedge at the same time.

"Now that cost is direct inflation," he explains, "it passes right on to the consumer."

In addition, the cooperative found buyers losing interest and margin calls were eating away at available cash. It dropped the price it had been offering farmers, finally using December futures as a pricing guide because it was not gyrating as widely as July.

According to the accepted theory of speculating in commodities, pure speculators drop out of the market before the final delivery month, leaving the market place to commercial interests who really want to deliver or receive corn.

In the final month, the futures contract is said to "mature." All the forces in the market place have had their impact. The futures price becomes the real price for corn. "It is," as one trader put it, "a process of homing in on the truth."

The "truth" for George Redman, when he walked into R. G. Dickinson's brokerage firm on July 20, came as a considerable shock.

He remembers coming in and seeing all the other brokers standing around Bill Knight talking in hushed voices.

"I said what's up, Bill? He said 'They've taken the limits off of corn.' I said what do you mean? He said 'It's an open ball field.'"

For weeks, the Chicago Board of Trade had imposed a 10 cent a day trading limit on corn futures. When the price rose a dime, trading stopped. The limit, however, was being removed on the final trading day.

Redman remembers Knight asking him if he wanted to get out, that is whether he wanted to buy two corn contracts at the day's opening price, about $2.28 a bushel, and take his loss.

Redman resisted. "I says I don't want to get out. He says 'you have to get out.' I says I'm not gonna get out."

So they both sat down to watch the numbers move across the board on the wall of the brokerage firm.

"We were looking at the corn and it was $2.88 or so, just laying there for about two hours. Then the damn corn went to $2.97, then $3.00, then $3.02, $3.05, and $3.52," remembers Redman.

"I said that's a mistake. We'll see a cancellation."

But there was no cancellation.

The group sitting in front of the board at R. G. Dickinson's brokerage house was watching an historical moment. Corn futures were at a new, all-time high, selling at a price that had never been reached, even in the years of drought, blight and war.

In fact, corn was selling at a higher price than wheat futures. That, too, had never happened.

At that point, the broker, Knight, his manager, Oliver Eckles, and the head of the

brokerage firm, R. G. Dickinson himself, were all yelling at Redman to "Get Out!"

What bothered Dickinson was that if Redman didn't get out, he would be obligated to deliver real corn to Chicago—an event that had not happened in all the 14 years R. G. Dickinson had been handling commodities.

But Redman did not get out. July corn went to $3.60, then $3.70 and $3.80 and $3.90, finally dropping to $3.80 when the trading ended.

"There was my broker standing there saying what in the hell am I going to do," recalls Redman. "I told him I know, my mind's made up. I am going to ship the corn."

Redman refused an offer to buy a warehouse receipt for corn then stored in Chicago at $3.80 a bushel, a move suggested by Eckles that would have released him from his contracts and given him a loss of about $16,000.

At that moment the two worlds of corn, the frenzied trading for "paper" corn in Chicago and the negative impact it was having on cash corn prices in Iowa, fused in Redman's mind.

He knew that, up the street from his house, the co-op elevator in Mitchellville was selling corn for $2.32 a bushel. Redman made arrangement for some trucks and asked R. G. Dickinson where he should deliver it.

Dickinson, a tall, dapper man in his late 40's, has a slightly different version of Redman's dealings in commodities. He was first reluctant to speak to a reporter, but later consented, choosing his words carefully.

He insists that selling first the bean contracts and then the July corn was all Redman's idea. At one point in the interview he called Bill Knight into his office.

Knight insisted he did not encourage Redman to "double up," and then began groping for words to explain how Redman went from the beans into the corn.

"Look," he said, finally, "this guy lost a ton of money."

"Wait a minute. Don't say another word," said Dickinson. "What is a ton of money. To a guy who makes 3 or 4 million dollars, $60,000 is not a ton of money."

Knight started to say that Redman did not make that much when Dickinson again cut him of: "O.K. We have your answer. That's all we wanted to know."

Then Eckles, Dickinson's commodity manager, began to explain why it was that all three of them tried so hard to get Redman to buy out the last day.

"That's right. We tried to get him to get out," he said, adding, "The horses were coming down to the wire, the game was almost over."

"Please don't use that language," interjected Dickinson, wincing. "Let us say that the allowable time had almost elapsed."

Finding a place for Redman to deliver his corn to was a major problem for Dickinson. "For 13 years in this business I've never had anybody deliver the goods. . . . It just isn't done," he explained.

"We told him not to do it. We said you're up against the pros," Dickinson added, ticking off the problems he warned Redman that he would have to face. There was a shortage of box cars. The warehouses were all owned by major grain companies who were busy collecting and shipping their own corn. Redman's corn might be rejected in Chicago for being the wrong type, or having too much moisture, or something.

Nevertheless, Redman persisted. He sent a certified letter to Dickinson, demanding to know where his 10,000 bushels of corn should be delivered.

After spending "two or three days" on the phone, Dickinson sent Redman a letter with the names of three companies: Cargill, Continental Grain Co. and Indiana Grain Co.

Then Redman spent some time on the phone, He figured that if the price of corn had hit $3.90 in Chicago, companies there must be ravenous for corn.

The first three companies all refused delivery. One said its elevators were full, another said it did not accept corn in trucks. Redman found the names of three other delivery points sanctioned by the Board of Trade. None of them wanted his corn either. In fact, he discovered that the cash price for corn in Chicago was $2.68 on July 20, not the $3.80 price the traders had arrived at in the corn pit at the Chicago Board of Trade.

"That's when I started getting a little shaky," recalls Redman.

Finally, however, he found a man in Memphis who was vice president of a company in Chicago that would take the corn. He was Dean Campbell, vice president of Dixie-Portland Milling Co.

It took 13 truckloads to get all of George Redman's corn to Chicago. Redman and his brother-in-law, Don Berkey, had it tested over and over again to make sure it was the right kind. Dixie-Portland accepted it. Redman had cut his losses by about $11,000.

Several grain dealers have privately acknowledged that what Redman was caught in is called a "market squeeze." When speculators who hold "long" contracts calling for delivery, know that there are shorts like Redman who haven't gotten out and know that delivery to Chicago is extremely difficult, they stay in the market until the very last day forcing the shorts to pay an extremely high price to get out.

As far as Campbell was concerned, his company didn't need the corn either. "In our own elevators, we don't have a whole hell of a lot of space, but we were phys'cally capable of doing it. I figured here was a guy who was trapped and couldn't get out."

"There appeared to be a squeeze on in corn. I don't know why it was. The speculators or whoever puts a squeeze on has his rights to his profits."

Reminded that such squeezes are a violation of federal law, Campbell said that they sometimes happen anyway.

"We're all 21 years old. We should know what the hell's going on. If we don't, we shouldn't be here."

Because losers don't often talk about their problems, it is difficult to tell how many others have wound up in George Redman's shoes attempting to play the "paper game" he found himself entwined in.

Redman knows one. A dentist from Omaha has called him wanting to know how to deliver corn.

Campbell knows another. After his name was mentioned in a brief newspaper account of Redman's dilemma, Campbell received a call from a banker in Denver wanting to deliver wheat.

"GAMBLERS" NEVER SEE THE CROP

(By John Fialka)

WINTERSET, IOWA.—This year, for the first time he can remember, the neighbors of Jack Jackson, 48, have received telephone calls from speculators in Chicago. They want to know how the corn is doing.

Jackson resents the whole business. He believes the market this year has gone "crazy," magnifying way out of proportion the problems he has in raising corn on his spread of 500 acres.

According to both commodity brokers and farmers in central Iowa, one of the world's most productive areas for corn and soybeans, Jackson's attitude about commodity speculation is fairly typical. "Few farmers speculate in commodities," said one broker, "they've always been plain suspicious."

"If it was dry and you started getting rains," explains Jackson, "why then the market would go way up and if it was raining too much and it looked like we wouldn't get our crops in, bang, it would go way down. They wouldn't have these wild fluctuations if it (trading) was run by people who were actually handling the product."

"It's just a matter of gambling," Jackson added. "There's a lot of people in there who are in there just for the sake of gambling. It's sort of a horse race type thing. Maybe they feel that they're doing agriculture a service, but from where I sit, they're not."

For Jackson, the problem is fairly simple. His soybeans go up to astronomical levels, but so do his costs of operation. "I just paid $14,000 for a tractor that cost $7,000 in 1967.

"I mean these laboring class of people are our best customers. When it gets so expensive that they can't afford it, why they've gotta have more money coming in. If they work on my tractor, then up goes the price of my tractor. I think this will just increase the spiral of inflation."

One of Jackson's neighbors is Kenneth L. Spera, who farms about 900 acres. Last fall he was among the estimated 90 percent of Iowa farmers who sold their soybeans at between $3 and $4 a bushel, before the bonanza started.

Spera, who has been farming for 45 years, figures that a $5 bushel is about all the higher soybeans should go. "I feel sorry for the poor devil who has to buy it on the other end."

"Sure, I realize there's a demand both American and foreign, but the speculator has entered into the picture. Since the first day of January, beans have been a little over $3, up to about $12, back down to below $5 and today they're up to $10.

"That is utterly ridiculous. The demand has not caused that, the speculator has caused that in my opinion. The guy who goes in and lays down a few cents a bushel and buys thousands of bushels of beans . . . he's strictly a gambler. He doesn't know soybeans from buckshot.

"He controls the product that I worked like a dog to produce. He's a gambler, a speculator. He doesn't even see it and he makes all the money."

For Spera, like Jackson, it boils down to a problem of simple arithmetic; "There's just as many bushels today as there were yesterday or will be tomorrow. There shouldn't be a 40 cents a bushel fluctuation in price every day. Those are your gamblers."

TRIBUTE TO TOM VAIL

Mr. GRIFFIN. Mr. President, an old saying goes like this:

Gentle in manner, strong in performance.

This certainly does describe Tom Vail whose untimely death at the age of 45 is mourned by all who had the pleasure of knowing him.

As chief counsel of the Committee on Finance, Tom stood out among that elite group of staff assistants who enable the Senate to do its work. He filled one of the most demanding positions on Capitol Hill with unfailing grace, outstanding competence, and unquestioned integrity.

With great fidelity he served the Congress for 22 years and had been with the Committee on Finance since 1964. During the 2 years I served on the committee I was deeply impressed not only with his knowledge and understanding of complicated tax matters but also by the rich human qualities he always displayed.

Tom had a wide circle of friends because he himself was a friendly and considerate man. Even though he worked long and hard for the Committee on Fi-

nance he was never too busy to assist other Senators and other staff members. He always did so most cheerfully.

Mrs. Griffin joins me in extending sincere condolences to Mrs. Vail and their children.

PASSING OF THE HISTORIC EXCHANGE HOTEL IN MONTGOMERY, ALA.

Mr. ALLEN. Mr. President, one of the sad facts of life is that so much of the world's progress is built over the ruins of the past.

This was vividly recalled to my mind by a column which appeared in the September 20, 1973, edition of the Montgomery Independent, one of Alabama's finest weekly newspapers. The article, entitled "A Sad So-Long to a Faded Rose: The Old Exchange," was written by Joe Azbell, a regular columnist for the paper, and an outstanding journalist whose ability to turn witty and pungent phrases is recognized widely throughout his profession. From Mr. Azbell's typewriter came the phrase "Send them a message" which will be remembered in American political history as the theme of Gov. George Wallace's 1972 Presidential campaign, a theme which had an almost electric effect on the American public.

In his column, Mr. Azbell describes the pending destruction of the old Exchange Hotel in Montgomery, Ala., as part of the city's urban renewal program. If only its walls could talk, this hotel could tell innumerable stories of the past. Mr. Azbell's story recalled to my own mind many incidents of my own past as a member of the Alabama legislature.

I am certain that every State capital has similar hostelries which are closely related to the political history of the State and, for that reason, I feel that the Senators will appreciate the story which Mr. Azbell tells so well.

Mr. President, 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:

[From the Montgomery (Ala.) Independent, Sept. 20, 1973]

A SAD SO-LONG TO A FADED ROSE: THE OLD EXCHANGE

(By Joe Azbell)

Now without rouge, sad and sour-breathed, the old Exchange Hotel, an original on a renovated Court Square and once renowned in book and by word-of-mouth as the polished rookery of white-suited Southern gents with gold canes and their corset-tight gowned belles, stands convicted of the sin of antiquity and goes to wrecker's guillotine next month.

Black workmen will swoop down on the hostelry with crow-bar and hatchet, saw and hammer, and when the rooms and lobby and meeting halls and offices and ornate bathrooms are stripped as clean as a desert skull, they will bring up a crane and slap a cannon ball, that swings like a clock-piece, into her vitals until she collapses in an atomic billow of dry, tomb-old dust.

Death will still memory lane, wipe out for thousands the honeymoon nest, where 40 or 50 years ago giddy couples registered nervously, and where still today they come on occasion, as grey and wrinkled as the hostelry, to recapture that celestial moment.

If only the walls could talk, what fantastic yarns could be recounted of early times when strong, determined men walked upon those tile floors, made deals in the chairs of the high-ceiled lobby, decided the future of Alabama government in the rooms, and swapped black bags of payoff dough for laws, for fat contracts, for jobs and appointments, and those slight political favors that the yokels back home would never know about.

Kluxers, their robes bleached white with lye soap by a black washwoman, huddled here, convinced of their cause, certain that their hooded sheets could thwart the mongrelization of the races. The last of these sheeted nightriders, Dr. Lycurgus Spinks, held sway in a cramped room, lit only by an incandescent bulb, in the early 1950's, doing mouth-to-mouth resuscitation on a corpse of a cause. Steel-grey at the hairline, with a great bulbous nose, his slitted eyes a liquid blue, Dr. Spinks projected such warmth, such extroverted kindness to all, including the black bellboys, that his KKK rebirth turned out an abortion.

Still, while the caldron boiled, 50 disciples, garbed in bedsheets, posed for Albert Kraus, a Jewish photographer, while the Spinks man, resplendent in a purple and gold robe and peaked crown modelled from the Pope's, all of which must have set the old boy back at least $200, jawed with me about the "damn Nigrahs" and how he and "these 'un's you see" are "as those twelve who followed our Lord."

Spinks disappeared, never to be heard from again, a grand wizard who vanished as certain as Merlin, but others with causes and cure-alls and sample cases and pasteboard suitcases and some with no luggage, filled the rooms until Governor Gordon Persons built the Southern Bypass and put the old hotel on an economic sickbed insofar as tourists were concerned.

The late Frank Buford, manager of the hotel, often lamented that Persons, whose state headquarters was on the mezzanine, should be the instrument of fate to doom the hotel. The Governor loved the old Exchange, which even then had its odors distinctive and unique with human seasoning. Still the corner was a goldmine of advertising with a banner across the balcony that proclaimed "Gordon Persons for Governor—He Keeps His Promises!" because in those days the whole of Central and South Alabama passed the corner in a campaign.

Ironically the sharp young ex-colonel, Vernon Merritt, who masterminded the Persons election and ate, slept and worked in the hotel during that campaign, was later to become the step-son of one of the former owners. Confederate Historian, Lawyer and Southern-gentleman-personified John S. Tilley, who married Vernon's mother, the creator of Merritt Beaten Biscuit Co. and one of the few Montgomerians ever featured in Reader's Digest.

If an old pro decided to run for office, he made a beeline to the Exchange to get a first-take on the mezzanine campaign room with its poor lighting, its heat and musty smell, but sill a valuable political tool. It was used by the best—congressmen, senators, governors, mayors, city commissioners, incuding Wilbur Nolen and Red James and Frank Parks and Big Jim Folsom and Persons. The first Draft-Wallace-for-President Committee, headed by Jack Seaborn, who was manager of Schwobilt's had the room for a time and when Vernon Merritt decided to run for Congress (he lost when he ended up with his leg in a cast from an accident), he went back to the Exchange where he had wrought victory for Persons.

When moviegoers flocked to see "Paper Moon" a few weeks ago with Ryan O'Neal, they saw a scene in the movie-set Exchange Hotel. In the book by Joe David Brown, this old hotel is the Montgomery hostelry, not as the movie presented it but in its real-life splendor as a first-class place to stay overnight.

Every hotel is plagued by prostitutes, and the Exchange, even in its heyday, was no exception. When J. B. Eiland, now deputy prison commissioner, was in charge of the vice squad for the Montgomery Police Department, he busted many pay-for-play women in the hotel, and once commented that he could sit in the lobby and know if he had an arrest. In those days, the vice squad booked the date, went to the room and paid over money and then flashed the badge.

The great characters of Alabama loafed in the lobby, newsmen, politicians, political fixers, lobbyists, kingmakers, wheelers-and-dealers, including among their number such headline-makers as Selma's Marshall Johnson, the circus-loving, "spot bottle" whiskey purveyor from Selma who was one of the few genuine kingmakers in Alabama history, and E. C. (Bud) Boswell, famed for the Boswell Act, a cigarette-sucking, thin, political mastermind from Geneva where he was Lord and host over all political goodies.

And then there were Hugh Sparrow, the Birmingham News' ace who was admired and hated and misunderstood by politicians because no man could buy him, and Atticus Mullins, the one-legged columnist of The Montgomery Advertiser who probably had the most political swat of any reporter before, then or since.

The swells staged their champagne soirees there and carriages and white horses brought the swishing ladies, and around the corner in the carriage house the black coachmen would gather in huddles around a fire.

Then politicians from national areas came to the Exchange and people would gather outside and try to peek inside. They say it's where Will Rogers once stayed. And certainly the vaudeville people stayed there, the headliners anyway, while the lesser actors took a room in a walkup on Monroe street.

And what splendor the hotel had in its public washrooms downstairs in the basement, a palace of a toilet with marble and tile and marvelous faucets and as big as the lobby of most motels today. The graffiti in later years reduced its splendor as only crudities can destroy.

It couldn't last, not this legend built on the site of the old burned hotel at the turn of the century, and a few years ago, Milner, a budget chain of hotels, took it over, not for tourists but for permanent residents, of which there were 80 until recently. The L & N Railroad contracted in the old days for their conductors and firemen and brakemen to stay there, as did Greyhound Bus.

Mrs. Thelma Green, once manager of Greystone and picked as manager of the year in 1966 by Milner when she took over the Exchange, is retiring, her 24 years of hotel service tucked neatly behind her. "There are no antiques left, nothing fancy, a lot of old furniture, a few things maybe here and there, but nothing like people might think," she said.

And so the hotel goes. They will move the historic marker off the wall and probably put it on a post. Those words "The Man and The Hour Have Met" by William Lowndes Yancey need polishing, but up against a noisy dark bar behind the wall where the marker is affixed, they lost their meaning anyway, a sacrilege to the memory that was intended.

Paraphrasing Yancey, the hotel and the hour have met, time marches on, and waits for no one and nothing, and like a slab cut out of yesterday, it will die, a tattered, sick old girl, unwanted as brick and mortar, the earth beneath all that has dollar worth. The owners don't know yet what will go on the precious earth in its place. But whatever it is, it won't compare with the life of the old building.

With the demolition, a part of downtown Montgomery will cease to live, the flock of blacks on the corner will be dispersed, the coolness of the canopy in the summer will be gone, and the living nectar of memory bank will be emptied by that much.

Goodbye, old girl.

EDWARD ZIEGLER SUBMITS WINNING CREST FOR U.S.S. "SOUTH CAROLINA"

Mr. THURMOND. Mr. President, as the Navy has progressed toward the commissioning of the U.S.S. *South Carolina* which was launched in 1972, a contest was held this summer for the selection of a ship crest.

The contest to design and create such a crest was opened to high school students throughout South Carolina. More than 200 entries were submitted. The winning entry was submitted by Edward Ziegler who was at that time a senior at North Augusta High School in my State. He is now a freshman at Clemson University.

His craftsmanship and symbolism were excellent. The crest of red, white, blue and gold has five stars over a map of South Carolina which is over an anchor. The creator of the crest described it as follows:

The use of a round shield displays continuity which the U.S.S. *South Carolina* will prove in its continuing service to the United States Navy. The colors red, white, and blue convince the viewer at a glance that this ship is American. The navy blue background is the South Carolina state flag's field color and symbolizes water; the red South Carolina state, with the anchor projected behind it, symbolizes the ship. The atom is the energy power for this great nautical vessel. Since there have been five previous ships with the same name, the five gold stars give this ship a new name.

This young man is to be commended for his efforts and his understanding of contemporary history in symbolizing this new ship which is the sixth to bear the name U.S.S. *South Carolina.*

REINSTATEMENT OF A. ERNEST FITZGERALD

Mr. HUGHES. Mr. President, one of the most heartening examples of a grievous injustice being rectified within the processes of our Government, was the recent ruling by a Civil Service Commission examiner that former Air Force Cost Analyst A. Ernest Fitzgerald was "improperly" fired in 1970 and should be reinstated and awarded back pay. Mr. Fitzgerald was fired pursuant to his testimony on $2 billion in cost overruns on the C–5A jet transport contract. As an editorial in the Des Moines Register put it—

Fitzgerald's struggle ended in a victory for government employees who believe their foremost obligation is tending the public interest even when that means disagreeing with the administration in power.

Mr. Fitzgerald gives credit for winning his long struggle for reinstatement to Senator PROXMIRE, Representatives WRIGHT PATMAN and JEROME WALDIE, the American Civil Liberties Union, a volunteer contingent of attorneys and Clark Mollenhoff, chief of the Washington bureau of the Des Moines Register. To Iowans, the indefatigable work of Mr. Mollenhoff in seeing that justice was done is a matter of considerable pride.

I ask unanimous consent that news stories in the Register dated September 19 and 20 and an editorial on September 20 be printed in the RECORD to give my colleagues an idea of the Midwestern reaction to this historic ruling and to point up the outstanding contribution of Mr. Mollenhoff in this great and just cause.

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

[From the Des Moines Register, Sept. 19, 1973]

GIVES CREDIT TO MOLLENHOFF

WASHINGTON, D.C.—A. Ernest Fitzgerald gave credit Tuesday for winning his long fight to the American Civil Liberties Union and volunteer attorneys who "put in literally thousands of hours," as well as to reporter Clark Mollenhoff, Senator William Proxmire (Dem., Wis.) and Representative Wright Patman (Dem., Tex.) and Jerome Waldie (Dem., Calif.)

Mollenhoff, the bureau chief for the Des Moines Register who held a post in the Nixon administration for a while, had testified he warned the President of Air Force bungling in the firing of Fitzgerald.

He told Fitzgerald's civil service hearing that he tried to alert top White House aides of his feeling the Air Force did not have a case and Fitzgerald's dismissal could mean "political dynamite."

Mollenhoff said he felt it was "a rigged case by the Air Force to get rid of a damn decent guy."

In giving the testimony, Mollenhoff waived executive privilege. He had been a special counsel to the President.

[From the Des Moines Register, Sept. 20, 1973]

FITZGERALD RULING LAUDED BY NIXON, PRODS ACCORD

WASHINGTON, D.C.—President Nixon said Wednesday that the hearing examiner decision calling for reinstatement of A. Ernest Fitzgerald as a cost analyst for the Air Force demonstrates the effectiveness of procedures in protecting the rights of federal employes.

White House press secretary Gerald Warren said that "it is the President's hope that the hearing officer's decision (announced Tuesday) will provide the impetus for the parties to get together and achieve prompt constructive and final resolution of the case without the necessity of an appeal."

It was interpreted as an additional prod to the Air Force not to appeal the Fitzgerald case, which it has fought bitterly for the last four years.

Hearing Examiner Herman Staiman's opinion directing the reinstatement of Fitzgerald with back pay to Jan. 5, 1970—the day his firing became effective—was a finding that the Air Force had acted "improperly" and unlawfully in abolishing Fitzgerald's job to get rid of him for "personal" reasons.

Fitzgerald was fired a few months after testifying on $2 billion in overruns on the C–5A jet transport contract with Lockheed.

The Air Force press office said early Wednesday that "the Air Force is studying an appeal in the Fitzgerald case and has 15 days in which to make a decision."

This seemed to bring it in conflict with White House statements Tuesday that "the President believes this is an equitable solution to a difficult problem and expects the Air Force to comply with the decision recommended by the hearing examiner."

Warren tried late Wednesday to clear up the confusion in a statement that "we understand the Air Force is considering whether to file an appeal of the hearing officer decision of the Civil Service Commission."

He added:

"The President noted that this case is a concrete demonstration of the effective operation of the administrative procedures by which the rights of federal employees are protected."

[Editorial From the Des Moines Register, Sept. 20, 1973]

JUSTICE IS DONE

A Civil Service Commission examiner has ruled that former Air Force cost analyst A. Ernest Fitzgerald was "improperly" fired in 1970 and should be reinstated and given back pay.

Fitzgerald, a civilian financial specialist, angered Air Force brass when he told a congressional committee late in 1968 that production of the controversial C–5A transports already had accumulated $2 billion in cost "overruns."

Air Force officials fired Fitzgerald in January, 1970, saying his position was being eliminated as part of a "reduction in force."

Fitzgerald's efforts to regain his $31,800-a-year job met with frustrating delays and legal obstacles, not the least of which was the refusal of the Civil Service Commission to hold a public hearing on his dismissal. Fitzgerald was forced to carry the matter to the U.S. Supreme Court before the government agreed to a public hearing.

The Watergate investigating committee recently uncovered a White House memorandum that figured heavily in the Civil Service ruling. The memo, from a White House aide to H. R. Haldeman, former head of the White House staff, said that Fitzgerald "must be given low marks for loyalty" and should be allowed "to bleed for a while."

Fitzgerald's struggle ended in a victory for government employees who believe their foremost obligation is tending the public interest, even when that means disagreeing with the administration in power. But his victory is tempered by the realization that the administration has powerful resources to make the lonely dissident "bleed."

Fitzgerald's cause earned the backing of the American Civil Liberties Union, which supplied legal help. Fitzgerald had supporters in Congress, led by Senator William Proxmire (Dem., Wis.). Clark Mollenhoff, chief of The Register's Washington Bureau, kept the facts of the case before the public by vigorous reporting.

The Civil Service Commission ruling would give Fitzgerald more than $100,000 in back pay, but it stopped short of awarding him costs and legal fees for his three-year-long struggle. Obviously, it requires abundant financial resources as well as courage and perseverance to combat a stubborn government. In the bureaucracy, free speech is not cheap.

NUCLEAR FUSION

Mr. GOLDWATER. Mr. President, energy being the vital, important problem that it is, I think we all should read as much as we can on the subject, particularly material concerning alternatives to our present sources of supply.

In the October issue of National Wildlife there is a most interesting article written by David Lee on nuclear fusion and includes an open letter from the vice president of the Federation to the President. I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the article and open letter were ordered to be printed in the RECORD, as follows:

NUCLEAR FUSION: WORLD'S HOPE FOR CHEAP, CLEAN, PLENTIFUL POWER

(By David G. Lee)

The sun was man's first source of energy—and has been virtually his only one. All energy except atomic energy originates within the sun:

The wood man once burned at the entrance to his cave came from trees which stored "sun power" through the magic of photosynthesis.

Coal, oil and natural gas are buried organic matter—solar energy trapped for millions of years.

Water power? The sun pours forth its radiation, which lifts the water from the seas and deposits it high in the mountains—an incredible feat of levitation.

In just one second, it has been estimated, the sun radiates as much energy as man has used since he first appeared on earth.

But in the very process of using these forms of trapped solar energy, man has befouled his spinning little home, and has grown increasingly dependent upon a dwindling bank account of energy.

If there were only some way to duplicate the *basic* energy process within the sun. . . . In that case, we wouldn't be dealing with secondhand stuff, but the *real thing*.

In the past 50 years, physicists have started to solve the mystery of *how* our solar power plant operates. Now they are trying to re-create a bit of the sun on earth. When they succeed, man will have a clean, pure source of energy. These scientists are trying to bottle up a star. And stars are made of strange stuff.

Ordinarily we consider our universe to be made up of just three states of matter—liquids, solids and gases. But there is a fourth state of matter called *plasma*. This is the stuff of which the stars are made and it makes up 99 percent of the total matter of the universe. Plasma is a collection of negatively charged electrons and positively charged ions. The sun, and all other living stars, are simply glowing spheres of plasma.

To understand plasma better, let's create some. If we heat any solid hot enough, it will either turn into a liquid and then into a gas, or directly into a gas. More heat will cut the binding cords of the molecules, separating them into atoms moving randomly in all directions. Occasionally one will strike another. The more heat we apply, the faster the atoms move, and the more likely they are to collide.

When such collisions occur, the atoms may be shattered. Negatively charged electrons are chipped away. The remainder of a broken atom then is positively charged, and is called an *ion*. Now we have a true plasma, with electrons and ions zipping about.

Such "low-temperature" plasmas are quite common. Fluorescent lights and neon signs are plasmas at work. An arc welder is a plasma of a slightly higher temperature.

Contrast the puny plasmas with the plasma of the sun. Deep in our mother star, two hydrogen atoms collide. This in itself is a miracle; despite the sun's density, two adjacent atoms normally are as far apart—in relation to their size as the Earth is from Venus!

Such cosmic bumper car accidents take place because there are so many ions. It has been calculated that about 564 million tons of hydrogen ions collide every second within the sun; the collisions instantly turn the hydrogen into 560 million tons of helium. Thus there is a net loss of four million ions, which escapes as radiation in all directions. It takes about eight minutes for this radiation to move through the heavens and impinge upon our little planet. Here it produces sunburns, is altered into the food we eat, and creates our fossil fuel.

The sun also loses energy in another way. It flings some of its own particles, its own *plasma*, outward into interplanetary space. This flow of particles is called the *solar wind*. It flows to the earth and right on past. And because the solar wind actually is a part of the sun, astrophysicists now take the novel view that *we are living inside the sun, inside the solar plasma!*

Some of this errant plasma leaks down through our atmosphere in the polar regions and creates nature's own fluorescent lights and neon signs, the spectacularly beautiful borealis.

Within this thin outer shell of the sun in which we live there are about 30,000 to 300,000 plasma particles per cubic foot. But far out in the blackness of interstellar space, plasma still exists—about 3,000 to 30,000 particles per cubic foot. Thus our home galaxy, the Milky Way, is not simply a collection of stars stewn through empty space but a thin, quite uniform plasma with occasional larger clots of plasma—the stars—born by gravitational attraction. We can picture the known universe as a kind of cosmic gelatin with gobs of denser plasma spotted here and there like bits of fruit in a jello mold.

In this view, our three familiar states of matter—liquid, solids and gases—are insignificant local accidents. It is the fourth state of matter—plasma—that is the true state of the universe.

If we could only stuff some of this universal energy into a bottle and clamp on the lid, we would have a limitless supply of energy—energy as clean and nonpolluting as sunshine itself.

The fuel for this process is not a problem. What is needed to start this *fusion reaction* (as the plasma reaction is called (is a supply of *deuterium*. This is simply one form—a relatively scarce form—of hydrogen. Ordinary hydrogen has a single proton for a nucleus; deuterium has a proton and a neutron. The water you drink contains deuterium. So does sea water.

Fortunately separation of deuterium from ordinary hydrogen is not difficult. The 1/200 ounce of deuterium in a gallon of water can be extracted at a cost of less than four cents. And if you could release all of the energy in the deuterma you'd have the equivalent of 300 gallons of high-test gasoline.

If we could only persuade the deuterons (individual atoms of deterium) to fuse, to produce a self-sustaining reaction.

Fusion in the depths of the sun takes place in three conditions:

1. *High density.* At the sun's center the density is about 11.4 times the density of lead.

2. *Extremely high temperatures.* At its center the sun's temperature is about 29,000,000 degrees Fahrenheit.

3. *Time enough to react.* The plasma must exist in the above conditions long enough for fusion to take place.

A star will be born.

In 1944, even before the first atom bomb had been tested, Los Alamos scientists were the first to suspect that man might be able to create such a star. Sporadic research forward fusion was performed over the years. Then in 1952 the Atomic Energy Commission organized the research and gave it a name—Project Sherwood.

In that same year scientists exploded the first hydrogen bomb. And a hydrogen bomb is simply an uncontrolled fusion reaction. In this first hydrogen bomb they used an atom bomb to create the necessary conditions for fusion, a *superdense* hydrogen plasma at *high temperature* for at least *long enough* for fusion to take place.

If such a reaction could be controlled. If . . .

You can't bottle plasma in an ordinary pickle jar—the highest melting point of any known material is 6,000 degrees Fahrenheit.

Fortunately, the laws of atomic physics have provided another possible bottle. A *magnetic* field strongly affects the ions and electrons in a plasma. If scientists can create an extremely strong magnetic field around the plasma, trapping these particles within a small volume, they will have an effective magnetic bottle.

There appears to be no reason why a magnetic bottle can't be created. Despite all their efforts, though, scientists have not been able to build one.

The problem is the temperamental nature of a plasma. As fusion is approached, the plasma's own electrons begin pinching it into a "rope." But then, for reasons not completely understood, this plasma "rope" begins to writhe. A wave appears in it; suddenly the entire plasma distorts itself right out of existence.

Nuclear scientist Edward Teller has described the problem of containing a plasma within a magnetic field as similar to attempting to hold a blob of jelly with a web of rubber bands.

But, depending upon your definition, controlled fusion *has* been accomplished. Temperatures and densities have momentarily reached fusion levels. The star has been born, and has burned brightly for an instant—then spun out of control.

How long will it be before man can sustain a controlled fusion reaction?

Robert Hirsch, AEC Director of Controlled Thermonuclear Research, says, "Twenty years ago we started with much unfounded optimism, and we were burned for it. However, in the last four years we've been as successful as theoretically possible in a variety of different experiments and now we're proceeding on *founded* optimism. If the results of all our experiments match our expectations, we may have fusion power plants by the year 2000."

Would more money for research help achieve this goal faster? Lawrence M. Lidsky, Associate Professor of Nuclear Engineering at MIT, says, "The U.S. has spent $30 million a year until recently. We're spending $45 million a year now. U.S. scientists could spend twice this much wisely and well. Generally speaking, the field is underfunded, but increasing spending by a factor of 5 or 10 *right now* would merely be money wasted."

And, as good as it promises to be, fusion power will not be cheap. Dr. Melvin Gottlieb of the Princeton University Plasma Physics Lab says, "Several billion dollars of development activity will be required before we can start producing fusion in these power plants.

"But fusion is our best long-term possibility. All energy production has undesirable side-effects, and there seems to be less with nuclear fusion than other power sources currently in use or under exploration."

Mankind once thought his fossil fuel supplies of coal and petroleum were so vast they were inexhaustible. Today we know this is not true. However, based on our present knowledge, the fusion fuel supply is virtually inexhaustible.

Dr. Lidsky: "If the world has five times its current population with twice the current U.S. energy consumption rate per capita, there will be enough energy in the oceans, without affecting life processes in the ocean, to provide mankind with power for a thousand million years."

There is other good news about nuclear fusion. It seems quite likely that:

Plasma plants will be easier and cheaper to construct than fission plants, and may eventually be built to any desired size. If this proves true, they can be tailor-made to the needs of specific areas, and may even be portable.

They will be cleaner and safer than fission energy plants. The fusion reactor is inherently safe. When fusion plasmas are disturbed in any manner other than the proper compressive forces, they will expand and decrease or quench the reaction. And they prob-

ably will offer one major bonus: Dangerous radioactive by-products from fission plants may be changed into valuable nonradioactive materials inside fusion plants!

They very likely will provide mankind with all the electrical power he will need for untold generations to come.

The moment scientists succeed in bottling up a star will be a pivotal point in man's history. The first commercial plasma reactor, it has been estimated, will have an electrical power output comparable to that of Hoover Dam. A handful of reactors could conceivably provide all the power requirements of the entire East Coast. The word brownout would disappear as fast as it has appeared.

It has taken man only a brief moment of cosmic time to poison his home. Soon, perhaps, as he sails along on the solar wind through a universe of plasma, he can truly begin the process of restoration.

If he can only bottle up a star.

OPEN LETTER TO THE PRESIDENT

Dear Mr. President: As an avid student of history, you know that while war clouds loomed in 1941, President Franklin D. Roosevelt read a letter from Albert Einstein and quickly decided to take a bold gamble. He committed the resources of this nation to a top secret venture designed to split the atom and build a bomb. His gamble—involving the most advanced technology and thousands of brilliant scientists, with no monetary limitations—paid off.

You also know that in 1960, President John F. Kennedy captured the imagination of the nation by boldly predicting that, even though behind the Russians in space, we would be the first nation to put a man on the moon. And do it before 1970! He pledged the necessary brains, manpower and money to win the race. That massive national commitment, carried out under three presidents, paid off. And you had the honor of personally welcoming back to the earth those pioneering astronauts.

Now, Mr. President, you have an unparalleled opportunity—indeed, a deep obligation—to launch a venture so beneficial to mankind that it dwarfs both of these great achievements.

You can practically ensure the earth's people of a cheap, clean and virtually unlimited supply of energy. This will make possible a higher standard of living and a richer quality of life for billions of people in the United States and around the world.

You can do this by making a massive national commitment to develop new sources of energy:

Nuclear fusion: The power that fuels the stars.

Solar: The power from the sun that makes plants grow and sets winds in motion.

Geothermal: The power contained in the earth's molten center.

Mr. President, you have recognized we are in deep trouble on the energy front, and have called for more research on coal gasification, oil exploration, on saving fuels. And you have urged people to reduce their energy use by five percent.

But there's real danger that we will become so preoccupied with trying to hoard and stretch our dwindling fossil fuels that we may think the problem is being solved, when at best this is a temporary "get-by" program.

It is decision time now for what happens *after* fossil fuels are exhausted. Unless we launch a crash program to develop new sources of energy for the year 2000—and do it now—then in twenty-five years all industrialized nations may degenerate into chaos. Tractors will quit in the fields and people will go hungry. Factories will shut down and lights will go off. And this disaster will also shrivel the hopes of two-thirds of the human race who have never had the good things in life.

A bold move now, a truly national commitment of the highest priority can not only stave off disaster—it can open up a rich new era of quality living for all people. So we urge you to consider this program:

Mission Possible: Launch a crash program to develop a demonstrable fusion plant and also a workable solar plant within fifteen years. This is no pipe dream. Scientists tell me nuclear fusion can be a practical reality by the year 2000. Right now, for four cents we can extract the 1/200 ounce of deuterium found in a gallon of water. In a controlled fusion reaction, that tiny drop of deuterium will produce as much energy as 300 gallons of high octane gasoline.

Special Task Force: Create an independent task force with this single-minded objective. Give it prestige, clout and leadership. Give it authority to draw upon all resources of government as well as private industry.

Cost: Fund it for whatever it needs to reach the objective, in the shortest time possible. The Manhattan Project, in a war crisis, had no monetary limitations; we are in a crisis equally threatening.

Timetable: Aim should be to have workable models in fifteen years. Industry can then take over and develop the hardware to start producing power in another ten years or so. We are already behind the Russians as you must know, but this is no mere prestige race. It is a race for the survival of civilization as we know it. We have perhaps twenty-five years before our gas and petroleum run out.

Mr. President, I doubt that we will ever solve the energy crisis on a government-as-usual basis. You must give it the same national priority as President Roosevelt gave to splitting the atom and President Kennedy gave to putting a man on the moon.

The pay-off for this energy program can be far, far greater.

Sincerely,

THOMAS L. KIMBALL,
Executive Vice President,
National Wildlife Federation.

LIGHTSHIP CHRISTENED

Mr. BIDEN. Mr. President, earlier this month the Lewes Historical Society unveiled its newest attraction, the "Overfalls," a lightship that until last year was anchored off the entrance to Boston harbor. Mrs. James E. Marvil, wife of society president Dr. James E. Marvil, christened the 110-foot vessel which will be reconditioned and opened to the public as a historical museum.

The society should be commended for its outstanding work in preserving our historical legacy and, in so doing, making the State of Delaware a showplace for people from all over the country to enjoy.

I ask unanimous consent that this article printed in the "Delaware Coast Press" documenting this ceremony be printed in the RECORD.

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

LIGHTSHIP CHRISTENED

(By David S. Hugg)

The Lewes Historical Society christened and unveiled the state's newest tourist attraction on Saturday afternoon.

With Mrs. James E. Marvil, wife of the society president, wielding the traditional bottle, the Boston Lightship was renamed "The Overfalls" in a ceremony witnessed by historical Society and guests.

Instead of champagne, the vessel was "christened" with "Cape Henlopen Wine", made and donated by a local, and admittedly amateur, wine maker.

It took two heaves by Mrs. Marvil before the straw-encased bottle shattered on the right bow of the 110-foot lightship, which from 1939 until last year guided ships to and from the Boston Harbor.

The ceremony, held on the south end of the Lewes Municipal Dock, was preceded and followed by conducted tours of the vessel. Later in the day, an informal reception for members and guests was held at the Rabbit's Ferry House in the Society's Historic Complex at Third and Shipcarpenter Sts. At the latter, "Lightship Punch" (based on an old Colonial recipe more generally known as "Fishhouse Punch") was served.

While the lightship is destined to become Delaware's newest tourist attraction, it will not fully assume this role until sometime next spring. Meanwhile, it will undergo some reconditioning at its present temporary mooring at the Lewes Municipal Dock.

Although lightship was made inoperable by its previous owner, the U.S. Coast Guard, before being "mothballed" in Curtis Bay near Baltimore, Dr. Marvil says that its equipment is in good shape and can readily be restored to working condition. This he points out will be accomplished before the ship is moved to a permanent location on the Lewes & Rehoboth Canal and again opened to public viewing.

After being donated to the Lewes Historical Society, the ship was towed in mid-August from Curtis Bay, through the Chesapeake & Delaware Canal and down the Delaware River and Delaware Bay, to its present temporary mooring opposite Lewes' 1812 Park.

While on "active duty", the lightship was anchored for almost 33 years 12 miles off the entrance to Boston Harbor where here flashing white light, visible in clear weather for 12 miles, a continuously operating radio beacon and a large diaphone (fog horn) safely guided ships to and from the harbor.

Except for periodic docking for repairs, the lightship remained in position with two 5,000-pound mushroom-shaped anchors holding it fast even in the roughest seas.

She carried at the time a complement of 20 men, captained by an ensign. With no more than one-third ashore at any one time, the ship always had 13 to 14 officers and men aboard on duty.

In bad weather, the lightship's position was checked every eight minutes to be certain that anchors were not dragging. An 18-foot wooden lifeboat and a larger motor boat were kept on davits for emergency use.

These boats were launched and taken aboard by use of a deck winch operated by compressed air. "Call letters", painted on the bridge deck, provided identity for aircraft flying over.

The vessel was pretty much self-sufficient, providing its own power needs with three 110 volt diesel generators, two air compressors and a large Cooper Bessemer engine. The latter was used to take the ship off station for supplies and to the shipyard when necessary.

The ship was heated by steam supplied by a modern gun-fired oil burner and cooking was accomplished in a large well-equipped galley. Large refrigerators and freezers assured a supply of fresh meats, daily products and other perishables.

A large tank in the hull also assured an adequate supply of fresh water at all times. Other tanks in the hull served as storage for diesel fuel and for ballast.

Although the almost constant use of fog horn made sleeping difficult at times, the crew had comfortable sleeping quarters. Modern tiled bathrooms were also available.

The wheelhouse was, of course, equipped with compass, binnacle, telegraph, radar, and radio receiver sets for all marine channels. Radio transmitting equipment was housed in an area to rear of the wheelhouse.

Lightships are now gradually being replaced by fully automated towers or large buoys, which was the fate of the former Boston Lightship and of the series of Overfalls Lightships that until 1961 did service off Cape Henlopen.

The memory of the latter is now perpetuated in the lightship that on Saturday afternoon became "The Overfalls".

Although the lightship was replaced by automatic equipment last year and then mothballed for a year, all of its equipment is still intact and in relatively good condition, as was evident at time of tour on Saturday. In addition, the ship contains quite an array of spare parts which will make the forthcoming reconditioning an easier task.

Indications are that much of the reconditioning will be accomplished by volunteers, some of whom have already joined together as the nucleus of an Overfalls Lightship Association. This association, according to Dr. Marvil, will not only assume the responsibility for preparing the ship for use as an historical museum but of maintaining it and later providing guided tours after it is again made available for public viewing.

Membership in the association is open to everyone interested in helping prepare the ship for its future role as one of the area's many outstanding attractions. A donation of $1 or more, sent to either Capt. Harry Frazier or Capt. G. H. Orton, makes the donor a charter member.

DEATH OF ARCHIBALD RUTLEDGE, POET LAUREATE OF SOUTH CAROLINA

Mr. THURMOND. Mr. President, one of America's notable literary figures, Archibald Rutledge, who was an outstanding and honored South Carolinian, died Sunday, a week before his 90th birthday.

Archibald Rutledge was the poet laureate of South Carolina for the last 39 years of his life, a position justly merited by the quality and quantity of his writings over a lifetime.

A man of distinguished letters, he contributed greatly to the inspirational and lyric tone of our national literature. His writings reflected wisdom and humanity and often centered around nature, particularly the familiar scenes of his stately plantation home, "Hampton." During his life he published nearly 100 books.

Upon graduation from Union College in Schenectady, N.Y., in 1904, as valedictorian, he went to Mercersburg Academy in Pennsylvania where he taught English and headed that academic department for the next 30 years. At the time he left Mercersburg, he returned to his ancestral home which was built in 1730, undertaking the job of restoring the stately structure which had fallen into disrepair.

Shortly after completing that project, he wrote one of his best known books, "Home By the River" which had Hampton as its setting.

In recognition of his great literary and human qualities, Dr. Rutledge received more than 20 honorary degrees. He also had been presented more than 30 gold medals for his writings. Twice he was second in the Pulitzer Prize for Poetry contest, losing once to Robert Frost and once to Edna St. Vincent Millay. He reportedly missed the Nobel Prize for Literature by only one vote the year William Faulkner was selected.

Mr. President, at the time of the death of Dr. Rutledge, a large number of articles and editorials concerning his life and work appeared in the newspapers of my State. Accordingly, I ask unanimous consent that several of them be printed in the RECORD at the conclusion of my remarks, as follows: "Poet Laureate Archibald Rutledge Dies," the News and Courier, Charleston, S.C., September 17, 1973; "Archibald Rutledge, Poet Laureate, Dies," the State, Columbia, S.C., September 17, 1973; "State's Poet Laureate Dead," Grand Strand Journal American, Georgetown, S.C., September 17, 1973; "Archibald Rutledge Dies," Charleston Evening Post, Charleston, S.C., September 17, 1973; "Archibald Rutledge Dies at 90," the Beaufort Gazette, Beaufort, S.C., September 17, 1973; "S.C. Poet Laureate Is Dead at Age 90," the Spartanburg Herald, Spartanburg, S.C., September 17, 1973; "Poet Laureate's Home Now Belongs to Us All," the News and Courier, Charleston, S.C., September 17, 1973; "Archibald Rutledge," the Greenville News, Greenville, S.C., September 19, 1973; "At Home on the River," the State, Columbia, S.C., September 19, 1973; "Archibald Rutledge," the News and Courier, Charleston, S.C., September 18, 1973; and "They Meant Much to Spartanburg," the Spartanburg Herald, September 18, 1973.

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

[From The News and Courier, Charleston, S.C., Sept. 17, 1973]

POET LAUREATE ARCHIBALD RUTLEDGE DIES

South Carolina's first and only poet laureate is dead.

Dr. Archibald Hamilton Rutledge died Saturday night at Hampton Plantation near McClellanville. His 90th birthday would have been next month.

Private funeral services will be held Tuesday at Hampton Plantation. Burial will be in the plantation cemetery.

Poet, naturalist, teacher and self-described "plantation boy", Rutledge was born in McClellanville, a son of Henry Middleton Rutledge and Mrs. Mary Hamilton Seabrook Rutledge.

Descended from distinguished South Carolina families, he was a great-grandson of two former governors, Whitemarsh B. Seabrook and John Rutledge. His father served as a colonel in the Confederate States Army.

Rutledge's schooling began in McClellanville. He later attended Porter Military Academy in Charleston and graduated in 1904 from Union College in Schenectady, N.Y.

After a brief period as a newspaper man, Rutledge joined the faculty of Mercersburg Academy in Pennsylvania, where he taught for 33 years.

While living in Pennsylvania, Rutledge's stories, for the most part, depicted life on the Carolina coast, and the subject matter of much of his poetry was drawn from the same source.

"I was transplanted to the mountains of Pennsylvania, but my roots and heart remained in the low country of Carolina," Rutledge once said.

Upon his retirement as head of the English department at Mercersburg Academy, Rutledge returned to his ancestral home in the Santee River.

The state's poet laureate was appointed to the position in 1934 by the late Gov. I. C. Blackwood.

But his career in poetry began much earlier.

Rutledge claimed his first composition was made at the age of three years when he told his mother: "I saw a little rattlesnake, too young to make his rattle shake."

The wildlife of the Lowcountry was a source of inspiration for works throughout Rutledge's lifetime.

"Under the Pines" was the first of the 90-some books the poet was to publish in his lifetime. His poetry and prose ranged through nature and Lowcountry lore. Among his best-known works are "My Colonel and His Lady" and "Home By The River."

Over the years Rutledge received more than 20 honorary degrees and 30 gold medals for his writing. He was a member of numerous professional and honorary societies.

"A literary gift is a high trust that ought to be maintained," Rutledge insisted.

"The legitimate field of art is beauty and truth."

His works chronicled a gentle, less hectic time.

He was frankly impatient with the poets of the 60s. "They have little to say, and they say it profoundly," he once complained to an interviewer.

"Most modern poets seem to hate romance and the past," he added. "Those are the things that used to make poetry lovable. Poetry today is rather like modern art. People assume a certain superiority by saying they understand it. But I suspect they do not."

Of his own writing, Rutledge said, "My formula is to find a subject worth writing about and then to make the writing simple, and then to make it clear and then to make it reach the heart and then to make it beautiful."

He wrote of love, of life's giddy moments, and of sentimentality.

Modern writers "generally select subjects not worth writing about, and then write it in such a fashion it is difficult to understand. When I read this writing over and over in search of meaning, I generally find nothing there but pessimism and cynicism," the poet laureate said.

"A writer has one great job in life and that is to tell about the hopes and the joys and the real things in life. He must be careful to never corrupt his readers," Rutledge observed on his 87th birthday.

It was on that day that his 95th book was released.

Writing in "The Woods and Wild Things I Remember" the poet laureate said:

"Darkness and I have long since been real friends; and I think she has revealed more to me of life's secrets than day has revealed. . . . I have learned that in the night are voices of strong appeal to the heart; and silences full of mystic meaning. . . . Always the night seems to be trying to show me patiently, with the infinite tenderness and wistful love of a mother, something of the truth of the mighty trinity of existence—life, love and death."

Surviving are: a son, Irvine H. Rutledge, a circuit court judge in Hagerstown, Md.; and four grandchildren, Donald T. Rutledge, a Charleston attorney, Elise Rutledge Bradford of Windermere, Fla., Henry Middleton Rutledge an attorney in Salisburry, Md. and Dr. Eleanor Rutledge of Gainsville, Fla.

[From the State, Columbia, S.C., Sept. 17, 1973]

ARCHIBALD RUTLEDGE, POET LAUREATE, DIES

McCLELLANVILLE.—Archibald Rutledge, poet, author and educator, died last Saturday at his home here. He was 90.

A South Carolina patriarch of letters, Rutledge was a prolific and much-published poet, calling predominantely upon his state's Lowcountry of which he was a native and

Hampton, his 3,000-acre estate on the lower Santee River, for his subjects and his inspirations.

He was officially the poet laureate of South Carolina, and had held that honor for 39 years.

Mr. Rutledge was the author of 95 books, and an enormous output of poems. A book published in 1960, as the complete poems of Rutledge, contained more than 800 works and ran to 635 pages. Many of his poems were short, and through the years scores of them were carried in national publications such as the "Atlantic Monthly," "Harper's Magazine," the "Christian Herald," the "New York Times," "Poetry Magazine" and "Good Housekeeping."

Of his many books, the best known was "Home on the River," with ancient Hampton as the setting. Others included "Brimming Tide," "Life's Extras," "The Heart's Citadel," "Those Were the Days" and "Rain on the Marsh."

Although much of Rutledge's life was spent away from Hampton, which is nine miles off U.S. 17 near the village of McClellanville, the old plantation with its columned house seemed ever in his heart—and in his writings. There he would go when he could, sleep in a large downstairs bedroom, hunt—and write. His acute and sophisticated awareness of his surroundings found expression not only in poems and stories of Hampton and its immediate environs, but of the nearby marshes and ocean.

The House at Hampton was built in 1730 by a Frenchman named Noe Serre. It was later acquired by Daniel Huger Horry who had married Serre's daughter in 1757. After her death, Horry married Harriott Pinckney, daughter of Charles and Eliza Lucas Pinckney. Their daughter became the wife of Frederick Rutledge, a son of John Rutledge, noted colonial governor and a leader in the Revolution. In this way, Hampton came into the hands of Archibald Rutledge, a great, great grandson of John Rutledge.

It was at age 54 that Archibald Rutledge returned to Hampton, after a 30-year English-teaching career at Mercersburg Academy in Mercersburg, Pa. He resolved to restore the decaying house.

"People said it couldn't be done without resources," he said. "They meant money. But they forgot that there are other resources. I drew on faith, hope, a little hard work and the loyalty of the Negroes." Two years later, he opened to the public what has been called the most famous Georgian home in America.

Hampton wasn't his only home. He and Mrs. Rutledge maintained for many years a summer home at Spartanburg.

In an interview there on one of his many birthday anniversaries, he once commented on writing.

"My formula for writing," he said, "is to find a subject worth writing about, and then to make the writing, and then to make the writing simple, then to make it clear, then to make it reach to the heart, and then to make it beautiful."

To younger writers, he said: "I cannot agree with the writers of today. I still believe a reader wants to read something to which he can relate and with which he can identify." Most modern writers, he commented, selected subjects which are not worthwhile, and "write in a style which is difficult to understand."

"And when I read this writing over and over in search of the meaning, I generally find nothing there but pessimism and cynicism," he added.

At 87, in a new book he was completing, he wrote at one point:

"Darkness and I have long been real friends; and I think she has revealed to me more of life's secrets than day has revealed. I have learned that in the night are voices of strong appeal to the heart; and silences full of mystic meaning.

"Always her white stars seem to me to be rising to immortality, her beautiful dark tide settling toward eternity."

When in his latter years he was working on his autobiography, he said its publication had to wait because "there are too many wretched people alive." The meaning was clear. Immediate publication would mean he would have to gloss over certain episodes and he didn't want to do it.

Mr. Rutledge's writings were read and highly appraised far beyond the borders of South Carolina. He received more than 20 honorary degrees and more than 30 gold medals for his writings.

In the Pulitzer contest in poetry once he was second to Robert Frost, and once second to Edna St. Vincent Millay.

When William Faulkner was given the Nobel Prize, the judges told Mr. Rutledge he had lost by only one vote.

He was a member of the American Poetry Society, the Neucomem Society, the American Academy of Arts and Letters and many similar organizations.

In 1956, the S.C. General Assembly presented him with a handsome medal, emblematic of his stature as poet laureate.

Mr. Rutledge was born at McClellanville Oct. 23, 1883. His father was Col. Henry Middleton Rutledge and his mother, Margaret Hamilton Seabrook Rutledge.

He was educated by his mother and by Miss Annie Lucas, who had a plantation school near his home.

He was graduated from the McClellanville High School and then as salutatorian from Porter Academy in Charleston. In his senior year he received four gold medals for excellence in English and French.

He won a Lorillard Scholarship to Union College in Schenectady, N.Y., where he worked his way through, during which time he kept up his writing, publishing in several national magazines before he was 20 years old.

Upon his graduation in 1904 as valedictorian, he went to teach English at the Mercersburg Academy in Pennsylvania where he was married.

[From the Grand Strand Journal American, Georgetown, S.C., Sept. 17, 1973]

ARCHIBALD RUTLEDGE—STATE'S POET LAUREATE DEAD

McCLELLANVILLE, S.C.—Archibald Rutledge, the poet laureate of South Carolina and author of 95 books, died Sunday at his ancestral plantation home in his beloved Low Country of South Carolina.

He was 90.

Rutledge was named the state's poet laureate in 1934 for his enormous output of poems, many of them about the coastal land of rice fields and marshes, and the nearby ocean, and the wildlife and fish in the area.

In an interview with The Associated Press on his 87th birthday, Rutledge said, "this plantation boy has lived a long life, and a happy life, and a misspent life."

Chuckling at his joke, Rutledge said he couldn't think of one thing he would change in his life, "although I have made a few mistakes, but all men are subjected to that."

His works appeared in such publications as the Atlantic Monthly, Harper's Magazine, the Christian Herald, the New York Times, Poetry Magazine, and Good Housekeeping.

Of his many books the best known was "Home on the River" with his plantation home "Hampton" as the setting.

Although he spent most of his life away from Hampton, with its columned house, and the great stretches of marshland, it seemed always in his heart and in his writing.

The house at Hampton has been built in 1730 and when it came into his possession, Rutledge restored the decaying home to its former grandeur.

One of his last books was "The Woods and Wild Things I Remember," a collection of stories from his days along the South Carolina coast.

He said at that time, "I fear this may be my last book and I find it a hard book to write because there are so many wretched people still alive, I have to be careful what I say about them."

Of his writing, Rutledge said, "My formula is find a subject worth writing about, and then to make the writing simple, then to make it clear, then to make it reach to the heart and then to make it beautiful."

Of modern writers, he said, "they generally select subjects not worth writing about, and then write in such a fashion it is difficult to understand. When I read this writing over and over in search of meaning, I generally find nothing there but pessimism and cynicism."

Rutledge was born in McClellanville, Oct. 23, 1883. His father was Col. Henry Middleton Rutlede and his mother Margaret Hamilton Seabrook Rutledge.

His schooling began at McClellanville and later at Porter Military Academy in Charleston and thence to Union College in New York where he graduated in 1904.

For 30 years he taught English and later was head of the English Department at the Mercersburg Academy in Mercersburg, Pa.

During his years, he received 20 honorary degrees and many literary awards.

Funeral services are pending.

He once said that now was the time "to hear America sing. We have heard so much else. Hear America sing through the throats of our native birds, and learn the joys of the wilderness and the wildlife."

[From the Charleston Evening Post, Charleston, S.C., Sept. 17, 1973]

ARCHIBALD RUTLEDGE DIES

Archibald Hamilton Rutledge, poet laureate of South Carolina since 1934, died early Sunday at his residence in McClellanville. He was 89 years old.

Private funeral services will be held Tuesday at the house at Hampton plantation, his ancestral home. Burial will be in the plantation cemetery.

Dr. Rutledge was the author of 95 books, the 95th being published on his 87th birthday in 1970.

Born Oct. 23, 1883, his interest in literature stemmed from the education and cultural interests of his parents. His father was Henry Middleton Rutledge, a Confederate Army colonel and owner of Hampton Plantation on South Santee River. His mother was Margaret Hamilton Seabrook, like Col. Rutledge, a member of the Lowcountry plantation aristocracy.

Dr. Rutledge's mother gathered her six children around her each night and read to them. By the time the author was 12, he had read all of Dickens, Thackeray, Scott and Tennyson and the theme of his life was set.

He was graduated as second honor man from Porter Military Academy in Charleston in 1900 and was awarded a Lorillard Scholarship to Union College in New York where he majored in English and biology. His boyhood was spent either at Hampton plantation or at the family's summer cottage in nearby McClellanville. Hunting, fishing and boating were among the many facets of country living that were ingrained in his nature.

During his college years, he was a correspondent for the New York Times, Troy Times and Albany Herald. When he was graduated from Union College in 1904 he took a reporter's job with the Washington Post but left six months later to become head of the English Department at Mercersburg Academy in Pennsylvania, a post he held until his retirement in 1937.

In 1907 he received the masters degree from Union College and married Frances L. Hart

of Winchester, Virginia. They had three children, Irvine Hart Rutledge, Maryland banker; the late Dr. Henry Middleton Rutledge and the late A. H. Rutledge Jr. Mrs. Rutledge died in 1935. A year later, Dr. Rutledge married Miss Alice Lucas, a Spartanburg schoolteacher, who had grown up in McClellanville with the poet laureate. She died in 1968.

While at Mercersburg, Dr. Rutledge produced 17 books of prose and 10 of poetry in addition to numerous magazine articles. He continued his writing after retirement, either in Spartanburg or in the room at Hampton Plantation where he had learned to read as a child.

His short stories, essays and poems have been reprinted in many English textbooks and his books have been printed in foreign countries. English schools still use his works in the classroom. When the S.C. State Legislature created the office of poet laureate for South Carolina, he was its first holder, retaining the post until his death.

His literary creed, expressed in 1938, was: "A literary gift is a high trust that ought to be maintained. The legitimate field of art is beauty and truth."

In his writing, he expressed his love of the beautiful, whether it be wildlife, woodlands, flora, fauna, the sea or human beings. He used his intimate knowledge of the area around Hampton and the entire Lowcountry as the basis from which his pen drew stories and poems that were to entertain and enchant millions of people.

At Mercersburg, in the cold Pennsylvania hills, he continued his nature studies. Filling his students with some of his zeal for exploration and study, he amassed the largest American Indian weapon collection in the world.

Together they collected more than 150,000 arrowheads, spearheads, and tomahawks. When Dr. Rutledge left Mercersburg, he presented the school with a collection of more than 75,000 items.

When he retired, Hampton House was in a bad state of repair. He set out to restore it to its former state and did so despite a lack of funds. Then he opened it to the public as one of the few remaining "Great Houses" in the state, maintaining it as a sort of museum. He continued to keep it open until prevented by illness.

In 1972 Dr. Rutledge sold Hampton House and a portion of the plantation property to the S. C. Parks, Recreation and Tourism Dept. The house will be maintained as a museum by the state.

A number of his books have been best sellers. "An American Hunter," published in the 1930s has been described as "the grandest book on hunting ever written by an American." Of his book of poems, "The Brimming Chalice," the Baltimore Sun said: "The note here is unmistakable; it is that of the immortal singer."

From the time he published his first book of poetry, "Under the Pines" (1907), until illness prevented him from working, he wrote daily. He became much in demand as a lecturer and traveled widely.

Hampton House was begun in 1730 and has played a role in much of the state's history. George Washington visited there on his tour of the nation and earlier the British very nearly captured Gen. Francis Marion, "The Swamp Fox", while he was a guest of Dr. Rutledge's ancestors. The property has been in the hands of the same family since 1688.

His forebears included some of the leading founders and maintainers of both the state and the nation. Two of his great-grandfathers were state governors: Whitemarsh B. Seabrook and John Rutledge. The latter also was president of South Carolina at the onset of the Revolutionary War.

Dr. Rutledge was a member of many learned societies, both in an active and honorary status. He received more than 20 honorary degrees, the Phi Beta Kappa key, and more than 30 gold medals for his writings.

Surviving are a son, Judge Irvine Hart Rutledge of Hagerstown, Md., and a number of grandchildren, including Donald T. Rutledge of Charleston.

[From the Beaufort (S.C.) Gazette, Sept. 17, 1973]

ARCHIBALD RUTLEDGE DIES AT 90

McCELLANVILLE, S.C.—Archibald Rutledge, the poet laureate of South Carolina whose works appeared in publications throughout the nation, died Sunday at the age of 90 in his plantation home that seemed ever in his heart and in his writings.

Funeral services are pending.

Rutledge, the author of 95 books, kept a deep love for the Low Country of South Carolina and its rice fields, marshes, the nearby ocean, and the wildlife.

Rutledge once said in an interview with The Associated Press that now was the time "to hear America sing. We have heard so much else. Hear America sing through the throats of our native birds and learn the joys of the wilderness and the wildlife."

On his 87th birthday and during one of his last visits with newsmen, he said, "this plantation boy has lived a long life, and a happy life, and misspent life.

"And," he continued, "I can't think of one thing I would change, although I have made a few mistakes, but all men are subjected to that."

Of his many books, the best known was "Home on the River," with his plantation home of "Hampton" as the setting.

Although he spent most of his life away from Hampton, he said his most pleasant days were when he could return to the large, white, columned house, and sleep in the large downstairs bedroom, and arise early to hunt, and then to write.

The house at Hampton was built in 1730 and when it came into his possession, Rutledge restored the decaying home to its former grandeur.

Rutledge was born in McClellanville, Oct. 23, 1883. His schooling began at McClellanville and later at Porter Military Academy in Charleston. He graduated from Union College of New York in 1904.

For 30 years he taught English at the Mercersburg Academy in Mercersburg, Pa.

During his years, he received 20 honorary degrees and numerous literary awards.

He was named poet laureate of South Carolina in 1934.

Of his writing, Rutledge once said, "My formula is find a subject worth writing about, and then to make the writing simple, then to make it clear, then to make it reach to the heart and then to make it beautiful."

Of modern writers, he said, "they generally select subjects not worth writing about, and then write in such a fashion it is difficult to understand. When I read this writing over and over in search of meaning, I generally find nothing there but pessimism and cynicism."

When his 95th book—"The Woods and Wild Things I Remember"—was released, Rutledge said, "I fear this may be my last book and I found it a hard book to write because there are so many wretched people still alive, I have to be careful what I say about them."

In that book, Rutledge wrote:

"Darkness and I have long since been real friends; and I think she has revealed more to me of life's secrets than day has revealed .... Always the night seems to be trying to show me patiently, with the infinite tenderness and wistful love of a mother, something of the truth of the mighty trinity of existence—life, love and death."

[From the Spartanburg (S.C.) Herald, Sept. 17, 1973]

SOUTH CAROLINA POET LAUREATE IS DEAD AT AGE 90

McCLELLANVILLE, S.C.—"Darkness and I have long since been real friends; and I think she has revealed more to me of life's secrets than days has revealed . . ."

This was a paragraph in Archibald Rutledge's last book, his 95th entitled, "The Woods and Wild Things I Remember." Rutledge, poet laureate of South Carolina and former resident of Spartanburg, died Sunday at his ancestral plantation home in his beloved Low Country of South Carolina. He was 90.

Rutledge spent long hours at his former 175 Alabama St. residence in Spartanburg working on some of his many publications. At 80, the home was "where I'm spending my 27th wonderful summer," according to Rutledge.

The senior citizens' high-rise Rutledge Apartments on North Church Street was named for Archibald Rutledge in August of 1971. Rutledge said of the dedication, "I will so try to live that you will feel this building has not been misnamed."

He was 90.

Rutledge was named the state's poet laureate in 1934 for his enormous output of poems, many of them about the coastal land of rice fields and marshes, and the nearby ocean, and the wildlife and fish in the area.

In an interview with The Associated Press on his 87th birthday, Rutledge said, "this plantation boy has lived a long life, and a happy life, and a misspent life."

Chuckling at his joke, Rutledge said he couldn't think of one thing he would change in his life, "although I have made a few mistakes, but all men are subjected to that."

His works appeared in such publications as the Atlantic Monthly, Harper's Magazine, the Christian Herald, the New York Times, Poetry Magazine, and Good Housekeeping.

Of his many books, the best known was "Home on the River" with his plantation home "Hampton" as the setting.

Although he spent most of his life away from Hampton, with its columned house, and the great stretches of marshland, it seemed ever in his heart and in his writing.

The house at Hampton had been built in 1730 and when it came into his possession, Rutledge restored the decaying home to its former grandeur.

One of his last books was "The Woods and Wild Things I Remember," a collection of stories from his days along the South Carolina coast.

He said at that time, "I fear this may be my last book and I find it a hard book to write because there are so many wretched people still alive, I have to be careful what I say about them."

Of his writing, Rutledge said, "My formula is find a subject worth writing about, and then to make the writing simple, then to make it clear, then to make it reach to the heart and then to make it beautiful."

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Rutledge was born in McClellanville, Oct. 23, 1883. His father was Col. Henry Middleton Rutledge and his mother Margaret Hamilton Seabrook Rutledge.

His schooling began at McClellanville and later at Porter Military Academy in Charleston and thence to Union College in New York where he graduated in 1904.

For 30 years he taught English and later

was head of the English Department at the Mercersburg Academy in Mercersburg, Pa.

During his years, he received 20 honorary degrees and many literary awards.

Funeral services are pending.

[From Charleston (S.C.) News & Courier, Sept. 17, 1973]

POET LAUREATE'S HOME NOW BELONGS TO US ALL

(By John D. Hughes)

The State of South Carolina now owns the historic Hampton Plantation which Dr. Archibald Rutledge revived from ruin in the late 1930's.

In 1972, a spokesman for the state's Dept. of Parks, Recreation and Tourism reported funds weren't available for restoration and that it would take five to ten years to complete restoration of Hampton Plantation.

The Plantation building dates to 1735 and the plantation itself dates to a 1686 land grant. This land grant came just 16 years after the founding of South Carolina and a year after the first French Huguenots settled on Santee River to form what was called French Santee.

A third generation Huguenot, Noe Serre, built the first substantial dwelling on the south side of Wambaw Creek in 1735.

The great house came into the possession of Daniel Horry, a French Huguenot, when he married Judith Serre, daughter of the builder.

When Judith died in 1768, Horry married Harriott Pinckney, the daughter of Chief Justice Charles Pinckney and Eliza Lucas Pinckney.

The Horrys and Pinckneys expanded the house to its present size and style about 1790 or 1791. The eight-columned portico was apparently the last addition.

In 1795 Harriott Horry married Frederick Rutledge and they obtained Hampton Plantation. Rutledge was the son of John Rutledge, once President of South Carolina and a framer of the Constitution. John's brother, Edward Rutledge, was a signer of the Declaration of Independence.

Since 1797 the plantation has been occupied by the Rutledges. The state purchased it in 1971 at a cost of $150,000.

In a May 14, 1939, News and Courier article the process of Dr. Rutledge's restoration of the plantation is described.

"People said it couldn't be done without resources. They meant money. But they forgot that there are other resources. I drew on faith, hope, a little hard work and the loyalty of the Negroes," Dr. Rutledge said.

Dr. Rutledge also wrote about the plantation in a March, 1938 edition of the "Saturday Evening Post."

"In restoring the house, I have had occasion to see behind every wall, under every floor, all those places where shoddy work, had it been done, might for centuries have been concealed. But all is massive, true. It seems to be a house affectionately built The giants sleepers, hewn out with the broadax, are still sound to the core after the lapse of more than 200 years," Dr. Rutledge wrote.

For Dr. Rutledge, Hampton Plantation was more than a place, a building, for him it was a philosophy and a way of life as it shown by another passage from his 1938 article.

At the time of the sale of Hampton to the state Maryland Circuit Judge Irvine H. Rutledge was acting as trustee for his father, Dr. Rutledge.

Judge Rutledge was quoted in the News and Courier as saying he liked the statement made by a friend about the Hampton negotiations: "You aren't really selling, you are just preserving it."

[From the Greenville (S.C.) News, Sept. 19, 1973]

ARCHIBALD RUTLEDGE

Archibald Rutledge, poet laureate of South Carolina for nearly four decades, was one of those rare symbols of seeming permanency, a beloved institution giving a sense of well-being just because he was around. His recent death, therefore, comes as a shock to South Carolinians, although it was not unexpected considering his 90 years.

Once Mr. Rutledge was a familiar figure as he journeyed about the state giving lectures in public schools and elsewhere. Of late years he had been in retirement in Spartanburg and more recently at his beloved Low-Country home, Hampton.

As a writer of prose and poetry, Mr. Rutledge was well known throughout the nation. In 1958 he was one of five American poets invited to make tape recordings of his poems for the National Archives. In 1972 the Library of Congress petitioned him for permission to publish his classic Home By The River in braille as a service to the blind.

The poet laureate's works appeared often in numerous national publications. He was the recipient of 20 honorary degrees and numerous literary awards. In 1934 the General Assembly adopted a resolution authorizing the governor to appoint a state poet laureate. Governor Blackwood appointed Mr. Rutledge on the basis of his achievements in the literary world. The laureate later was presented a gold medal bearing the State Seal in recognition of his services.

Mr. Rutledge was known best as a lover of and writer about the South Carolina Low Country. It is true that most of his poems and stories had Low-Country settings. But some of his most delightful stories concerned mountain people, whom he came to know quite well as a result of frequent visits to the Red Hills. Therefore, he was in every sense of the word representative of the entire State of South Carolina.

He was a productive writer, publishing 100 books. His works continued to emerge in his later years. Quite possibly some unpublished Rutledge writings will come out later.

An outstanding South Carolina man of letters, Mr. Rutledge proved by his writings that the simple style is the best. He strove first for simplicity, then clarity, then beauty—and he achieved all three.

He will be sorely missed in a state made richer by his life. Appropriately the State Parks, Recreation and Tourism Department recently acquired Hampton, the Rutledge home, which was built in 1730 and was restored by Archibald * * * valuable memorial to the poet laureate and the way of life he loved and described so well.

[From the Columbia (S.C.) State, Sept. 19, 1973]

AT HOME ON THE RIVER

The literature of South Carolina is neither vast nor rich. It has nurtured few writers and poets of real stature. Among the most illustrious of this rare breed was Archibald Rutledge.

Mr. Rutledge, whose life ebbed away Saturday at the age of 89, was a true son of South Carolina. His roots ran deep into the history of the state. He was a great, great grandson of John Rutledge, the most exalted South Carolinian of the Revolutionary period.

He personified the patrician gentleness that South Carolinians like to think characterized their past, and which indeed helped shape the South Carolina character. His huge outpouring of books and poems reflected his love of nature, his reverence for the old ways, and his noble philosophy. His columned plantation home, Hampton, near McClellanville, has been called "the most famous Georgian home in America."

Part of that fame stems from the fact that it was the setting for his best known book, *Home on the River*, which probably graces more South Carolina coffee tables than any other work.

His short poems, even more than his books, gave Mr. Rutledge a high place in the world of letters. "My formula for writing," he once said, "is to find a subject worth writing about, and then to make the writing simple, then to make it clear, then to make it reach the heart, and then to make it beautiful." That is a formula that would serve any writer well.

He was witness to the great events and vast changes of a period stretching from the post-Reconstruction days to the present. Yet he remained steadfast in his adherence to and respect for the traditions of the Old South.

His state has honored him in many ways. He has been its poet laureate since that position was created by the legislature in 1934. And national honors have also come his way.

Hampton Plantation, the Rutledge birthplace, is now owned by the state, which will complete its restoration. Archibald Rutledge spent much of his life away from the place, but it was ever in his thoughts, and now he will rest at home on the river.

[From Charleston (S.C.) News & Courier, Sept. 18, 1973]

ARCHIBALD RUTLEDGE

A prolific writer, Archibald Rutledge gave pleasure and inspiration to countless thousands who read his prose and poetry. A lifelong interest in nature provided both a background and a storehouse of themes for his stories, mostly concerning life along the South Carolina coast where he was born.

A teacher for 33 years at Mercersburg Academy, Mr. Rutledge returned in retirement to Hampton Plantation on the Santee, his "Home by the River".

"I was transplanted to the mountains of Pennsylvania, but my roots and heart remained in the Lowcountry of Carolina," he said of his period as a teacher. His philosophy of literature was summed up in these words: "A writer has one great job in life and that is to tell about the hopes and the joys of the real things in life. He must be careful to never corrupt his readers."

The code was in contrast to the fashions of his time. "Most modern poets seem to hate romance and the past," he said. "Those are the things that used to make poetry lovable. Poetry today is rather like modern art. People assume a certain superiority by saying they understand it. But I suspect they do not."

The demand for Mr. Rutledge's work was proved by publication of nearly 100 volumes. His appointment in 1934 as poet laureate of South Carolina was well received by fellow citizens. His works will continue to be read and remembered long after his death, at age 89, has terminated a long and fruitful lifetime. They are a record of his region, his heritage and his own rich personality.

[From the Spartanburg (S.C.) Herald, Sept. 18, 1973]

THEY MEANT MUCH TO SPARTANBURG

Two men who meant much to Spartanburg—and each of whom loved this community—died Sunday.

One was Archibald Rutledge, South Carolina's first and only poet laureate.

The other was Dr. T. S. Buie, who earned renown as a pioneer soil conservationist in this county and in the nation.

Their careers were quite diverse but very probably their philosophies were close. Both loved nature and each of them nurtured it lovingly.

Neither was native to this area. Rutledge was born in McClellanville and Buie was born in Marlboro County. But both of them chose to live in Spartanburg for considerable portions of their lives.

Each of them in his own special way, has enriched the community by his presence and his work.

"This plantation boy has lived a long life a happy life . . ." said Archibald Rutledge in

1970. The happy spirit of his life, expressed by many volumes of exquisite poetry and prose, he imparted in bountiful portions to hosts of others.

"A literary gift is a high trust that ought to be maintained," said Rutledge. "The legitimate field of art is beauty and truth."

It was a creed to which he was forever faithful.

Dr. Bule came to this county in the bleak depths of the Great Depression. He brought scientific know-how, determination and faith to an impoverished countryside.

He proved that proper techniques could turn ugly red gullies into green, productive fields and forests. His pioneering work spread from here throughout the Southeast and was influential throughout the nation.

These two men—Archibald Rutledge and T. S. Bule—were giants in an era when there was sore need for them. Their monuments will remain long after them in the work they did.

We in Spartanburg are blessed to have been a part of it.

OIL SHORTAGES—NEED FOR MANDATORY ALLOCATION

Mr. NELSON. Mr. President, in recent weeks the Congress has been exhorted to concern itself with "the business of the people" on the grounds that we have been neglecting that responsibility while diverting our attention to nonimportant matters.

Many of us do not agree, of course, that those nonimportant matters are not the business of the people and that they do not require our attention. More importantly, however, there is ample evidence as reported by Congressional Quarterly and the news media that Congress this year has dedicated itself to the business before it with a degree of dispatch that far exceeds the record of many past sessions.

I think that there is one particular area in which it is most important that we compare the relative attention of the Congress and the administration to the business of the people. I refer to the oil and gasoline shortage that has been a matter of concern since early last winter, and which as each day passes occupies more of our attention.

Members from the upper Midwest will recall the seeming suddenness with which these problems hit our offices last winter, necessitating considerable staff work with the Office of Emergency Preparedness to get crucial supplies of propane gas and fuel oil to our constituents. That is part of our job, of course—to be the liaison between the people back home and the Federal agencies that can solve their problems.

But an even bigger part of our job is to foresee such problems as that which occurred last winter, or at least to learn from them, and to enact legislation that will forestall them.

I submit that the Senate's record on the business of the people in this matter is very good.

Because of last winter's shortages, the Congress—and in particular, the Senate—feared even more severe problems in this area this winter. As a consequence of our concern the Senate amended the Economic Stabilization Act last spring to provide the administration with the power to call upon the industry for voluntary allocation of petroleum products, and if this failed, to institute mandatory allocation.

Anticipating that the administration might not exercise this discretionary power, the Senate in two other instances in which I concurred passed amendments to other legislation that made such allocation mandatory on the part of the administration.

Obviously, therefore, the Senate has been aware of the potential problems and has taken affirmative action to meet the problem.

The administration on the other hand, while generally charging that the Congress has been preoccupied with other matters that are "the business of the people," has gone through a series of gyrations that have not only thoroughly confused the problem but have not in any way solved it.

The administration has set up a voluntary allocation plan but the major oil companies have simply ignored it. Substantive proof of their failure was documented just this week by Senator RIBICOFF who pointed out that in the northeastern United States, the major oil company fuel oil storage facilities are filled to 82 percent of capacity while the independents have only 25 percent of the capacity filled.

And this, as Senator RIBICOFF points out, is not because of a shortage of fuel oil in that area. In fact, the major oil companies reported that in total they have 15 percent more fuel oil than they had a year ago.

My office, and I am certain it is not the exception, has received countless letters from gasoline service station operators, independent fuel oil and gasoline distributors, and the farmers and businessmen who depend upon them, detailing the manner in which the voluntary allocation program has failed and spelling out the shortages that can be anticipated in Wisconsin this fall and winter.

Now the complaints that I am getting and that arise from the statistics that Senator RIBICOFF has developed are truly "the business of the people" for what it indicates is that we are talking about a major industry, the oil industry, manipulating the existing supplies in such a way as to jeopardize the well-being not only of the independent dealers who have serviced the Nation's homes and businesses in the past, but the very security of those institutions.

Consider the administration's gyrations on this matter. Earlier this year it instituted the voluntary allocation plan and hinted it might use the mandatory powers it possessed. Then in late summer Gov. John Love, Director of the President's Energy Policy Office, said that there was no need to use these powers in view of the available supply.

On September 6, however, Governor Love reversed himself and declared that the supply situation is so tight that it may be necessary to ration heating oil at the consumer level.

Within a few days, this position was contradicted by the President who declared that we are not faced with a shortage and that short-term problems could be met by lowering emission standards and allowing the use of imported, high-sulphur oil at a higher cost.

There has been no better demonstration of how the administration, on the one hand, and the Congress, on the other hand, are looking after "the business of the people."

It is time, I submit, that we present this administration with a mandatory plan that will provide that the existing supply of petroleum products be allocated fairly on the basis of the past distribution experience. If we have less fuel oil this winter, let the independents receive proportionately the amount they received last year. If there is more, let the independents share proportionately in that also.

Any lingering doubt that action is needed in this area was dispelled just today with the release of a study by the Joint Economic Committee of the Congress documenting the potential for dangerous shortages, as well as the statement by a consortium of the Nation's largest electric utilities calling for mandatory allocation.

And finally an administration spokesman said that the White House might wait for Congress to impose mandatory fuel allocations—this despite the demonstrated need for such action and the fact that the White House already possesses the authority for such controls.

Well, let Congress not hesitate then to make it mandatory that the White House use the power it already possesses. Hopefully the House will act shortly on one of the mandatory plans already passed by the Senate. But if it does not, I submit that the Senate should attach such an amendment to every bill before it until it finds one acceptable to the House and one which the President cannot veto.

The tragedy here, of course, is that time is flying by and irreparable damage is being done to thousands of small businessmen throughout the Nation with the potential of great peril to the Nation's homes and many other institutions.

While the Government lollies it just could happen that the furnace fires in many of our Nation's homes will go out this winter.

SENATOR MATHIAS REPORTS ON CHESAPEAKE BAY

Mr. BUCKLEY. Mr. President, Americans are becoming increasingly aware of the complex and conflicting claims which man's needs and activities are placing upon our natural environment. The senior Senator from Maryland has vigorously supported the establishment of procedures and mechanisms for insuring that all these claims are pulled together and that a balanced environmental policy is developed at all levels of government. I am pleased to note that my colleague is now undertaking an intensive study of one of the Nation's largest and most important estuaries, the Chesapeake Bay. The Senator recently reported to his constituents on the progress of his study, and this report sparked much comment throughout the Chesapeake Bay area.

I would like to call the attention of

my colleagues to this report, and I ask unanimous consent that it be printed in the RECORD, together with an editorial which appeared in the Baltimore News American commenting on the Senator's efforts.

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

THE CHESAPEAKE BAY

(By Senator CHARLES McC. MATHIAS, Jr.)

The tour of the Chesapeake Bay that I took in late June covered 465 miles and included meetings with over 150 Marylanders directly concerned with the economy or the ecology of this vital waterway.

I looked at the Bay through many different eyes. The Baltimore businessman has a completely different view of the Bay from that of the waterman in Crisfield, or the boating enthusiast from Prince Georges County. One major problem is to get a perspective that includes all of these viewpoints. Only then can we make intelligent decisions on priorities for the future and how we must proceed toward common goals.

UNITY OF BAY

The Chesapeake Bay, so large and so diverse, is nevertheless a unity, and we must learn to treat it that way.

A marina in Harford County or a shipper in Baltimore cannot ignore the Southern Maryland tourism industry or the value of the marshes on the Eastern shore.

At the same time, environmentalists must realize that there can no longer be any value in a policy of digging in the heels and opposing all change. Change will come, and we will have to decide what kind of change it will be for everyone affected. One environmentalist told me during the tour that he realizes there "will have to be some trade-offs" as pressures mount on environmental problems in the years just ahead.

Businessmen must realize that they can no longer save money by ignoring the environmental consequences of their methods. Just because dumping wastes into a river has always been permitted is no longer an excuse to continue the practice. There is no right to pass one's own cleanup costs on to residents of the next town downstream.

SPARROWS POINT

This problem is particularly critical at Bethlehem Steel's Sparrows Point plant where officials are spending millions to get on top of serious pollution problems . . . in one case, taking a multi-million-dollar gamble on technology that they hope will help greatly in cleaning up their steelmaking.

At the same time, each of us as private citizens must do a part. It's tempting to get rid of old crankcase oil by tossing it down a sewer, but that sewer leads to a river and eventually to the Bay itself. Secretary of the Interior Rogers Morton told me that 40 percent of the oil pollution in the Bay comes from old crankcase oil dumped in waterways as far away as Western Maryland.

Boaters have a responsibility to the water they use, because a busy summer weekend will find a boating population on the Bay equal to the combined size of Frederick and Hagerstown, and only a few of those boats are equipped with chemical toilets or other devices to avoid polluting the Bay waters.

That is a particular vital consideration because raw human sewage is the single greatest pollutant of the Bay, whether it somes from boats or from shore communities without adequate sewage treatment facilities.

The tough decisions on the future of the Bay are coming up fast. One thing I learned during the tour is that we need both knowledge and the kind of decision-making machinery which can translate that knowledge into responsible action.

DATA BANK

At the start of the tour, it seemed that many of the scientists who are studying everything from crabs to marsh grasses to power plants to soil erosion were unaware of what each other was doing. I thought it would be a good idea to have some central data bank on the Bay to collect information.

Then during the tour, I met with many of these scientists and found that there is an informal scientific grapevine which operates efficiently. Scientists, it turns out, may have disagreements, but they are generally aware of what research is being done.

The real problem is that when a controversy becomes a matter of public debate, and scientific opinion is needed, it is hard to tap into the grapevine: I think a data bank is still a good idea as a convenience to scientists, but also for those of us who are not experts and who have to make decisions that are economic or political, based on scientific knowledge.

I am now going back to many of those I met, and asking how some resource could be created to give us the information we need. If we in Congress, for example, knew what the gaps are in our current knowledge, we could seek the funds for the right kind of research to fill those gaps.

DECISIONMAKING

There is also the need for decisionmaking machinery to translate knowledge into action. When it comes to the Chesapeake Bay, economy and ecology are two ends of the same string and you can't pull one end without affecting the other.

To this end, I am writing state officials to ask their opinions of ways to make these decisions. Because Virginia shares the Bay, I also am contacting state officials there.

In addition, many agencies of the Federal government have duties and jurisdictions which may or may not be coordinated with each other, much less with their counterparts on the state level. The oysters, crabs, and rockfish all know the Bay as a unity, but mankind has a long way to go before he treats it that way. On the federal level, I will be working through contacts and agencies, and through legislation, if it is needed, to bring about better interagency cooperation, and better state-federal cooperation, to make sure that everyone shares the same overall goals for the Bay and those it serves.

BAY COMPACT

Specifically, I hope to investigate the possibility of a Bay compact, including both states and the federal government. If the Potomac and Susquehanna compact agreements can be our model, it may be possible to create a compact for the Bay.

GATEWAY

I also will investigate the Gateway project, which reportedly has worked with such success in the San Francisco Bay, to see if that idea can be put to work on the much larger scale needed to handle the problems of the nation's largest estuary, the Chesapeake.

A DROP OF WATER

I learned during my tour that a drop of water which enters the Chesapeake Bay from the Susquehanna River travels down the Bay for one year before it finally joins the ocean. It is clear that we must be very careful about how we treat that drop and all the others, because pollution from a town at the top of the Bay will have an effect on business, recreation and the quality of the environment along the entire length.

One final item I must share with you is my impression of the Bay as a uniquely beautiful and vital asset to Maryland and the lives of all who live in it. Out on the water, enjoying the breeze and the freshness, it is hard to believe that such a resource could be in danger, and one day may be lost to us.

I returned from my tour dedicated to doing all I can, as a Senator and as a Marylander, to preserve the health of the Bay. In the months ahead, I will be working on the official level and as an informal intermediary between the many people concerned with economy and ecology, to ensure that the Chesapeake Bay will always be Maryland's greatest resource.

THE CHESAPEAKE BAY

In his years in the Senate, Sen. Charles McC. Mathias has established a reputation as a thoughtful student of national problems and an innovative thinker.

He has added to that reputation with an essay entitled "Preliminary Report: The Chesapeake Bay" in the current issue of his monthly publication of reports and comments.

Points out Sen. Mathias: "The Baltimore businessman has a completely different view of the Bay from that of the waterman in Crisfield, or the boating enthusiast from Prince George's County. One major problem is to get a perspective that includes all of these viewpoints. Only then can we make intelligent decisions on priorities for the future and how we must proceed toward common goals."

Sen. Mathias adds: "The Chesapeake Bay, so large and so diverse, is nevertheless a unity, and we must learn to treat it that way."

He observes wryly that the oysters, crabs and rockfish all know the Bay as a unity, but mankind has a long way to go before he treats it that way.

A specific solution which Sen. Mathias plans to investigate is the establishment of a Bay compact, including both states and the federal government.

If the Potomac and Susquehanna compact agreements can be the model, then it may be possible to create a compact for the Bay, he believes.

The senator writes on the basis of a tour of the Bay he took in late June which covered 465 miles and included meetings with more than 150 Marylanders concerned with the Bay's economy or ecology.

Pollution is a serious threat. Sen. Mathias points out that pollution from a town at the top of the Bay will have an effect on business, recreation and the quality of the environment along the entire length of this body of water.

Sen. Mathias has done his homework. He has become well aware of the Bay's problem. His suggestion for a solution—a Bay compact—is worthy of serious study by all the governmental agencies concerned.

DELAWARE LEAGUE OF WOMEN VOTERS SUBMITS VIEWS ON TRADE LEGISLATION

Mr. BIDEN. Mr. President, I recall that one of the first groups of constituents to visit my Senate office was the Delaware League of Women Voters. Its members came to attend hearings and collect documents from the congressional committees involved in reviewing foreign trade. In the intervening months the women have completed their year of study on the issue and now present their views and recommendations on the trade legislation which will come before the Senate. I commend the league members for their conscientious efforts to both understand the complex issues involved in the negotiations on tariffs and trade which will begin later this year and provide constructive policy recommendations for the legislation which will give the adminis-

tration bargaining authority to reach agreements with our trading partners.

I ask unanimous consent that the letter from the Delaware League of Women Voters and the accompanying report by Sarah Whitehorn, chairman of the International Relations Committee, and statement of position on trade by the League of Women Voters of the United States be printed in the RECORD.

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

LEAGUE OF WOMEN VOTERS,
OF NEWARK, DEL.,
September 7, 1973.

Hon. JOSEPH R. BIDEN, Jr.,
Senator From Delaware, New Senate Office Building, Washington, D.C.

DEAR SENATOR BIDEN: Enclosed is a copy of a report on the Trade Conference which Sarah Whitehorn had an opportunity to attend during the summer in Washington sponsered by the League of Women Voters Education Fund.

The League of Women Voters of Delaware felt that our legislators would welcome this trade information. We are also enclosing the League of Women Voters position on trade, a position which was adopted after a year of study by Leagues throughout the country.

We hope that you will find this material helpful when the trade bill comes to the floor of the Senate. If we can be of any further service, please let us know.

Sincerely yours,
MARY MARGARET JUERS,
President.
SARAH WHITEHORN, *Chairman,*
International Relations Committee.

REPORT ON LEAGUE OF WOMEN VOTERS' TRADE CONFERENCES

(By Sarah Whitehorn)

Sixty League members representing every state in the Union as well as its territories attended the Trade Conference sponsored by the National League on July 10 and 11, 1973 in Washington, D.C. The Conference provided the participants with information on trade and with many points of view on the subject. It was a tremendously stimulating experience for the League members who had the opportunity to attend.

Many of the speakers were those responsible for carrying out the trade policies of their countries. William D. Eberle, Special Representative for U.S. Trade Negotiations was the opening speaker. Taking part in a panel were Adolpho Combo, from the Directorate for External Relations, Common Market Countries, S. Hayashi, 1st Secretary for Economics, Japanese Embassy, Guy Erb, Senior Fellow from the Overseas Development Council, and Yuri Molov, Assistant Commercial Counselor, Soviet Embassy.

Other speakers represented various points of view on Trade found in the U.S. James Kelley, from the I.B.M. Corporation, spoke for Multinationals. Stanley Ruttenberg, former Assistant Secretary of Labor gave labor's point of view. Robert Lewis, secretary of the Farmers' Union gave the picture as it looks to the farmer. Richard Frank from the Center for Law and Social Policy represented the consumer.

Also speaking to League members were Peter Peterson, former Secretary of Commerce, and Congressmen John Culver (D-Iowa), James Burke (D-Mass.) and Barber Conable (R-N.Y.).

Representative William Eberle said that the objectives for the coming trade negotiations were to work toward (1) a more open world and (2) an improved international economic system. Several speakers stressed the importance of recognizing the relationship of international trade to the economic well-being of our own country and that of all countries of the world.

Particularly interested in this interrelationship were Representative Culver and Former Secretary of Commerce Peterson. Peterson said that all the negotiators meeting this fall must have a "generalist" view or overview of the whole world as they make plans for their future together.

The speakers who represented our trading partners made it clear that the negotiations that would be taking place in Tokyo would not be an easy matter. Both Combo from the Common Market and Hayashi from the Japanese Embassy recognized the interdependence of nations and yet they seemed to have reservations. They pointed to the recent export controls and other U.S. acts taken unilaterally which had hurt their people and made their governments lose confidence in their ability to deal with the U.S. Combo particularly, took a hard stance. Molov from the Soviet Union, pointed to the growing trade between our countries but said that we must break down antagonistic public attitudes which grew up in both countries during the cold war days. Guy Erb, speaking for the Low-Developed Countries, said that these countries are suspicious and anxious about the coming trade negotiations. They feel that they cannot improve their trade prospects through reciprocal trade agreements because they have so little with which to bargain. They are also fearful that they will lose the trade preferences that they now have with the Common Market countries and Japan. They feel that they have been given little assurance that they will get trade preferences from the U.S.

Much of the Conference time was spent on discussing the trade bills that are in committee. Eberle said that the bill that is finally passed must give the President the kind of authority which will give him "credibility, leverage and flexibility" to negotiate. Ruttenberg, former Assistant Secretary of Labor, stressed the use of restrictions as a stick for concessions from other countries. He said that the U.S. has been "soft" with her trading partners in the past and has given them trading advantages. In return the U.S. has been rewarded by restrictions on U.S. products entering their countries. Most speakers seemed to feel that the President must be given authority to negotiate. The question was how to limit this power and how to set up a mechanism that would keep Congress constantly informed on the progress of negotiations.

The philosophy of an adjustment assistance program and the mechanics of such a program were discussed by many speakers. Congressman Burke was not interested in adjustment assistance. He said he wanted restrictions on imports and not welfare. Congressmen Conable and Culver felt that a free flow of goods and commodities between countries was to everyone's advantage. However, they said, liberal trade policy must be accompanied by a good adjustment assistance program. Without this a liberal trade policy is unfair and inhuman. The argument is that liberal trade policies give consumers lower prices and better quality goods. Those who lose their jobs or their businesses for the good of the whole society should be helped to train for and find new jobs or establish new businesses. Culver said that a good adjustment assistance program should include an early warning system, retraining, relocating the work force and loans to business and communities. The estimated cost of such a program would be $500 million to $1 billion. The cost of restrictions is said to be $8 to $15 billion in higher prices to consumers and subsidies to inefficient industries.

Whether or not greater restrictions should be placed on multinationals or whether changes should be made on their tax status was also discussed by several of the speakers. The case against multinationals was hardest hit by Burke and Ruttenberg. The answers coming from some of the others were that multinationals are a fact of today's economic system.

These corporations should not be handicapped by U.S. restrictions, neither should they be given tax privileges by the U.S. government. Instead, they suggested that multinationals be regulated by an international agency. The U.S. must help strengthen such an international agency and then cooperate with it.

Some conclusions that I, personally, drew from this conference are as follows:

(1) A liberal trade policy is the only rational course in today's interdependent world.

(2) The U.S. should plan her economic goals.

(3) A trade bill should be passed as soon as possible. This bill should include:

(a) Presidential authority to negotiate trade agreements.

(b) Presidential authority should have built in time limits.

(c) Built in mechanism for Congressional in-put and review during negotiations.

(d) Use of restrictions as means of bargaining should be specifically limited.

(e) Preferences should be given to Low-Developed Countries.

(f) Farm products should also be negotiated.

(g) Adjustment assistance must be part of the bill and it must be a strong part of it.

(h) Some changes in tax laws for multinationals.

At its June 11–15 meeting, the national Board of the LWVUS adopted the following International Relations position which reflects the analysis and evaluation of the trade consensus reports recently completed by local Leagues.

STATEMENT OF POSITION ON TRADE

The League of Women Voters continues to believe in a liberal U.S. trade policy. We are convinced that the political and economic interests of this country and of its citizens collectively and individually are best served by such a policy, which paves the way for political harmony with other nations, stimulates economic development at home and abroad, and expands consumer choice. We believe that our trade policy should be flexible, effective and efficient and that it should be based on the public interest, not on special or sectional interests.

LIBERAL TRADE POLICIES

The League endorses systematic reduction tariff and nontariff trade barriers and broad, long-range presidential authority to negotiate trade agreements. The United States should continue to participate in multilateral negotiations of trade agreements, and the benefits of these agreements should be extended to our trading partners through most-favored-nation treatment. In recognition of the gross disparity in trading positions between the developed and the developing countries, the principle of reciprocity in trade agreements should be waived to the extent that is necessary to make special trade concessions to developing countries.

Implicit in the League's support of expanded trade is opposition to measures which impede trade: restrictive administrative procedures, quotas, Buy American provisions, and similar measures. We favor the application of domestic health, safety and environmental protection regulations to imports. We believe that these measures should, at a minimum, conform to international standards but that they should not be used as a pretext for restricting the flow of trade. We also believe that customs procedures should be simplified.

THE U.S. AND THE WORLD ECONOMY

The League members are convinced that national and international remedies for the U.S. balance-of-payments deficit should be aimed generally in the direction of trade expansion and away from narrow, short-range, restrictionist palliatives. We support such positive remedies as:

Efforts by U.S. industries to improve product quality and international marketing techniques.

Reform of the international monetary system.

Government policies designed to promote expansion of U.S. exports, encourage industrial research and development, and promote tourism from other countries to the United States.

We believe that the free flow of investment and technology plays an important role in fostering economic development and the improvement of living standards throughout the world. However, the interests of citizens in both the host and parent countries should be guarded by:

International standards and agreements to regulate overseas corporate investment policies and practices.

Some modification of domestic tax laws which affect multinational corporations.

ADJUSTMENT PROGRAMS

Trade adjustment assistance should be made easily available to domestic firms and workers injured by import competition. The goal of this assistance should be to encourage economic adaption through self-help efforts of business and labor.

Workers: Adjustment assistance to workers should be expanded and improved.

Retraining of workers should be central to the program and should be better related to job opportunities by being linked to national training programs and to an early warning system for identifying employment trends.

Job mobility should be facilitated through the protection of pension rights and other fringe benefits.

Financial compensation should be increased.

Firms: Adjustment assistance to firms for retooling or conversion should take the form of tax incentives or government loans.

Industries: If an industry were found to be severely injured by an extensive and rapid influx of imports, temporary trade restrictions might be needed to allow time for adjustment. Any such safeguard measures must be multilaterally negotiated and short term, with specific phase-out provisions.

"LITTLEJOHN DAY" IN EDGEFIELD, S.C.

Mr. THURMOND. Mr. President, a distinguished gentleman and his charming wife were the recipients recently of an outpouring of love and appreciation in Edgefield, S.C. The recipients were Rev. and Mrs. J. T. Littlejohn, who have carried the word of God to countless people both here in America and abroad.

Having had the honor of knowing the Littlejohns for years, I can truthfully state they deserve this tribute. "J. T. Littlejohn Day" was Edgefield's way of saying thank you.

Reverend Littlejohn and his wife, Marguerite, have spent their lives in the ministry. They have seen heartbreak. They have offered their shoulders to those who had no one else. On the other hand, they have seen joy. They have seen lives transformed as a result of their ministry. They sacrificed the materialistic values of life and chose, instead, to devote their lives to Christian values.

Mr. President, a newspaper article regarding "J. T. Littlejohn Day" was recently called to my attention and I would like to share it with my colleagues.

Accordingly, I ask unanimous consent that the article entitled "Littlejohn Day—What a Day It Was," which appeared in the Edgefield County News, September 13, 1973, be printed in the RECORD.

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

"LITTLEJOHN DAY"—WHAT A DAY IT WAS!

Littlejohn Day—and what a day it was! A tremendous crowd of well-wishers jampacked the First Baptist Church Sunday afternoon to pay tribute to the patriarch of all Christians throughout the entire area, regardless of church affiliations.

The Rev. J. T. Littlejohn and his wife Marguerite were overwhelmed and overjoyed by the honors and gifts bestowed upon them.

The appreciation service followed dinner on the grounds, which was marked by much good food, good fellowship, and lots of good sunshine.

Since the programmed services didn't begin until 2:30 p.m., the sweltering visitors gratefully sought relief in the air-conditioned church auditorium. Under the direction of Herbert Albin, the entire congregation from tots to older people joined in singing old time favorites in a great outpouring of spiritual praise, which continued for almost an hour.

An estimated 500 or 600 persons crowded the choir lofts, sat in the aisles and stood in the rear of the sanctuary.

The Rev. Eugene Eaddy led in prayer. In his welcoming remarks, the Rev. Thom Collins said, "This was not the idea of any one church. People from other churches and other denominations within the county and some from throughout South Carolina have joined in this expression of love and appreciation to this fine couple."

Rep. Butler Derrick, Jr., read a joint resolution passed by the South Carolina legislature proclaiming Sept. 9th "John T. Littlejohn Day."

The Rev. Richard Brewer and son Ricky sang several numbers, with Mrs. Brewer at the piano.

The Rev. Brewer, pastor of Antioch Church, told of Rev. Littlejohn's ministry of ten years at Antioch, and of the love of the people for him and his wife. He asked for a show of hands from those who had been visited in hospitals by Mr. Littlejohn, and hands were raised all over the church.

Layman Bud Robertson added words of appreciation.

The Rev. G. W. Splawn, pastor of Red Hill Church, stressed Mr. Littlejohn's devotion to his Savior and his adherence to the teachings of the Scriptures. Layman Thomas Mathias, of Red Hill, mentioned that Mr. Littlejohn had spent part of his early life in the Red Hill community, and that, in the light of his record of service, he might well be called "Big John."

The Rev. Byron Twigg, pastor of Republican Church, spoke of what it meant, as a pastor, to follow in the footsteps of such a church leader. He said that Republican Church has been well-schooled in what is expected of a church and in what is expected of Christians in their everyday life. He said it was an inspiration to him as well as to all who knew Mr. Littlejohn to know his compassion for and his understanding of the many problems everyone has to face. He said that his faith in God, and in his fellowman, was manifested in everything he did. Layman Charles Stone also paid tribute to his compassion, and mentioned his unfailing sense of humor. He said Mr. Littlejohn loved everyone, regardless of station, color or creed, and was, in turn, loved by everyone.

The Littlejohns were escorted outside and assisted to seats on the back of a truck which had a banner emblazoned with "Littlejohn Day" on the side of it.

Mrs. Frances Chapman presented the first gift, a huge bound book containing letters of love and appreciation from those he had served during his long ministry as missionary, chaplain, and pastor.

De Loach Padgett read and presented a framed appreciation from the U.S. Government thanking the First Baptist Church at Elliott, S.C. for releasing him from that church to serve in the Chaplaincy of the U.S. Army.

Mrs. Lena Kemp presented a hugh silver tray to the couple, bearing suitable inscriptions.

Kenneth Morgan announced that a room at the Edgefield County Hospital had been furnished in honor of Mr. and Mrs. Littlejohn, for which both were greatly moved.

D. T. Mathis, a life-long friend of the Rev. Littlejohn, mentioned the fact that "J. T." was a minister's son, and that everyone knew how bad minister's children were "especially one red-headed, freckled-faced boy." However, he added "J. T." had outgrown some of that, but still liked a practical joke.

He presented a garden tiller and lawn mower to the Littlejohns, purchased from funds contributed from a host of friends. Mr. Littlejohn's hobby is gardening.

When a shiny new black 1973 Chevrolet rolled up and parked in front of the makeshift platform, the Littlejohns' eyes widened in disbelief.

Mr. Frank Timmerman told them they had worn out their old car going to hospitals, visiting the sick and in doing good in other ways, "So, we thought you might need a new one."

Music from a tape recorder sounded as the car doors were opened and the keys presented to the delighted pair. Someone opened the trunk and displayed boxes and boxes of peppermint candy, Mr. Littlejohn's stock-in-trade. He keeps his pockets bulging with it, and distributes it to all and sundry as he goes about from hospitals, to homes, and to churches. Children call him "The Candy Man."

The Littlejohns were last seen buckling their seatbelts in the new car and driving happily homeward.

TOM VAIL—A DEDICATED PUBLIC SERVANT

Mr. RIBICOFF. Mr. President, it was with great sadness that I learned of the death of Tom Vail, the chief counsel of the Senate Finance Committee. Both the Senate and the Nation have lost a dedicated public servant. He will be missed.

When I joined the Senate Finance Committee it had no staff of its own. Tom was the sole professional Finance Committee staff member in 1964 and 1965. He was appointed in 1966 to become chief counsel and to organize a staff. He put together a staff which is recognized today as being amongst the best in the Senate. Tom's organizational talents made this possible and his administrative talents enabled the committee to run smoothy. He and his staff were always available to provide assistance to Senate Members, whether Democrat or Republican.

Tom was also a top-notch tax lawyer. He joined the Joint Internal Revenue Taxation Committee in 1951 and served while working his way through college and law school. In 1964 he came to the Finance Committee and we have benefited from his expertise ever since. He had an immense storehouse of knowledge on the many complicated tax matters which came before our committee.

It is a tragedy to lose a man like Tom who was so young. He exemplified the best qualities in public service. He was a man of the highest moral character and his personal and professional integrity were without question.

His loss will be felt not only by the members of the Senate Finance Committee and the Senate but by all those who knew him and worked with him.

Tom will not be forgotten. As the distinguished chairman of the Senate Finance Committee so eloquently stated:

The greatest legacy a man leaves to his fellow man is that of a shining example. Truly Tom Vail leaves that with all of us.

My wife Lois and I send our deepest condolences and prayers to his wife Nancy and their four children.

J. GREGORY POOLE

Mr. HELMS. Mr. President, the Nation lost a great citizen on Saturday, September 22. J. Gregory Poole, a dear friend of mine and a fine citizen of my State, passed away in Raleigh after an illness of several months.

Mr. President, this man was remarkable because he had an unyielding faith in God and a complete dedication to his country. He was quiet; he was always a gentleman. But he stood fearlessly and constantly for what he believed.

And among the things he believed, Mr. President, was that this Nation's destiny is tied directly to Providence. North Carolina has few citizens as successful in business as was J. Gregory Poole. Yet he was an unpretentious man. He was always ready to help those less fortunate than he.

He helped me, Mr. President, because he constantly inspired me with his faith and courage and dedication. He was a friend of several Members of the Senate. All of us who were blessed with his friendship mourn his loss. We will miss him. But we will be forever grateful that he walked our way, and that he set such an example of integrity and honor.

Mrs. Helms and I extend our deepest sympathy to his family.

CRIB DEATH

Mr. MONDALE. Mr. President, for nearly 2 years the tragedy of crib death or sudden infant death syndrome has been of great concern to me and many of my colleagues in the Senate.

On September 20, my Subcommittee on Children and Youth and Senator KENNEDY's Subcommittee on Health held a joint hearing on this problem. It has been and is still our aim to create the momentum necessary to pass a bill which will provide support for families who lose children to the disease; as well as adequate research funds.

On September 21, the Washington Post printed a most informative article about SIDS, how it affects the parents, and what can be done to help.

An article which appeared in Ebony magazine provides special insight into the problem of crib death in black families. We know that SIDS strikes families of all economic and social classes. However, statistics show that the incidence is higher among black and poor families. I ask unanimous consent that the article from Ebony, entitled "The Mystery of Crib Death," and the article from the Washington Post be printed in the RECORD.

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

THE TRAGEDY OF CRIB DEATH

(By Colman McCarthy)

Earlier this year in a small California town near San Diego, John and Patricia Smiley went into the bedroom of their four week old infant. The child, healthy the day before, lay dead. The couple, frantic with sudden shock, immediately called the local sheriff's office to ask for an ambulance. As Smiley remembers it, the voice at the other end replied that if the child was dead, why was an ambulance needed.

So began the post-death ordeal of the Smileys. The young and poor couple was charged on suspicion of involuntary manslaughter and jailed for three days. The charges were eventually dropped but not before the couple had been harassed to the point that they left town. The Smileys were in Washington yesterday, testifying before a joint session of the Senate subcommittee on children and youth and the subcommittee on health. "There are just so many bad memories to the whole situation and I would like to forget," Smiley told the senators, "but I know that I will never be able to forget. . . . I hope that it never happens to anyone else like it happened to us. The death of a child is bad enough. It's the harassment and lack of knowledge, lack of understanding and lack of compassion that hurts more than anything else."

The tragedy of the Smileys would pass unnoticed—another hard luck case in a world full of them—except that it is part of a national pattern. Their child died from sudden infant death syndrome, a disease that kills an estimated 10,000 infants a year, at a ratio of one in 350. SIDS (crib death) is neither predictable nor preventable. Perhaps because of this, interest in its research has been limited, from medical schools to the federal government; current federal primary money for SIDS research grants is $262,000, less than the cost of remodeling the President's jet; primary research contracts are $340,000. What is especially strange about the disease is not its mystery but that little is done for the surviving parents, even though much is known about their anguish. Couples are not usually jailed as the Smileys were, but nearly all are imprisoned within some kind of emotional torment from which release is painful and perhaps impossible.

Many who are concerned about SIDS learned long ago not to look at the federal government for leadership, much less to local health officials. Instead, several private groups are at work. Among them are the Guild for Infant Survival (Baltimore) and the National Foundation for Sudden Infant death (New York). In testimony yesterday, Dr. Abraham Bergman, a Seattle pediatrician and the foundation's president, said that the parents' post-death anguish "is all so unnecessary. By the expenditure of a small amount of funds (such as proposed in legislation now before the Senate), and just the semblance of some action on the part of HEW, the human aspects of SIDS which causes an enormous toll of mental illness could be solved within two years."

In other years, Bergman has come to Washington with mostly general statements on the degree of neglect. The response was small. This time, he is presenting specific details from 158 American communities on what action coroners, medical examiners, health officials and parents take when infants die suddenly and unexpectedly. The report, with a few bright parts, is generally bleak. A coroner in Alabama called a SIDS death suffocation because "blacks do not know how to care for their children properly." An Idaho coroner called it "partial neglect and pneumonia." Only half of some 400 parents were told their children died of SIDS. Only 27 percent of the communities had pathologists to certify the cause of death; in 43 per cent of the communities it was not even a physician who performed this service, but often an undertaker, ambulance driver or sheriff. More than a third of the families had to wait between a week and many months before the autopsy results were provided; 9 per cent were never told by anyone why their infants died.

Not surprisingly, Bergman's study found racial and class discrimination in the management of SIDS. "Half as many blacks as whites were given SIDS as an explanation for death; four times as many blacks were told that their baby suffocated; and three times more blacks than whites were never told why their baby died. Some 75 per cent of upper class families had heard of SIDS before their baby died, and 92 per cent received information afterwards. Only 48 per cent of lower class families had heard of SIDS before their baby died and only 40 per cent received information about SIDS after their baby died. The people who needed the help most were least apt to receive it."

The loss of an infant causes an anguish that only the surviving parents can feel. Even when a parent is familiar with the disease, the trauma can be intense. A Seattle pediatrician working in the hospital with the world's largest SIDS research project said that her knowledge that SIDS is neither predictable nor preventable "did not protect me from painful guilt feelings and depression. I was a human being and a mother who needed help at a critical time." She was visiting in Los Angeles when her infant son died and the help was not provided. More than two months passed before she even knew that an autopsy had been performed. "I keep thinking," the woman has written, "if a physician's family, which has some understanding of SIDS, is treated in this way in Los Angeles, what happens to other families who don't have similar resources? Why can't parents who lose treasured infants be treated with dignity and compassion?"

It is a fair question. One possible answer is the lack of leadership among public health officials. Why should a local sheriff's office be expected to show sensitivity if no example is given by the supposedly alert doctors in many state and federal agencies? At the last Senate hearings on SIDS, an HEW doctor in charge of SIDS research issues the inevitable promise to take action, but he's gone from the agency now. His successor has renewed the promise. "I don't know what happens to people when they come back here to the banks of the Potomac," Bergman said. "Maybe it's the heat or maybe it's the smog. Government officials here in Washington are always busy, busy, busy with *big problems*. HEW always seems to have some reorganization cooking. *Global* health strategy is being devised, or else 'we're new in our job, just give us time.' Senator Magnuson says that, what with all the job changes, the busiest people in this town are the sign painters down at HEW."

If we were told this morning that in the next year a dreadful plague would kill 10,000

of America's children, it is likely the nation's medical community would command the front pages of newspapers to announce plans to meet the threat. The sign painters at HEW would be idle because no official would dare leave his post in this emergency. Every local community, including Alabama coroners, would be on the alert. Such a plague is not coming, of course, at least not the Black Death kind of threat. But a year from now, another 10,000 infants will have been found dead in their cribs. Afterward, their parents will die repeated emotional deaths in private anguish. The research to prevent SIDS may be far off, but ways to prevent the abuse of surviving parents is well known. Perhaps the largest mystery involving SIDS is that we are not acting on facts already available.

CRIB DEATH

"I don't understand this 'crib death.' Why do these babies go and they can't find anything?" bemoans the young Harlem mother who recently lost her "little man." "I argued with the man at the morgue, but he told me they couldn't find anything wrong with the baby. He said something about 'crib death.' I had never heard the word before in my life; I thought my baby's death had something to do with the actual crib.

"The baby was not too long come into this world and all of a sudden he's gone," Mrs. Juanita Brown continues in anguish. "He wasn't here long enough to even know the world. Whenever I see another mother with a baby, I'm wondering why she has her baby and I don't have mine. When I see babies wearing the same outfits my baby used to wear, it really affects me. It puzzles me a whole lot; everybody has their babies but me!"

Mrs. Brown, 22, had departed home as usual that night in February, 1973, for her midnight to 8 a.m. job as a nurses' aide, leaving two-month-old Ely under the watchful eyes of her mate. Before she left, she had given the infant a baby aspirin for he appeared to be coming down with a cold, and bade him her usual, cheery farewell, "I'll see you tomorrow morning. You be a good boy." Upon arriving home from work the next day, she found her child sleeping peacefully in his crib.

"I sensed something was strange, but I just let him sleep for a while," Mrs. Brown recalls. "I had his bottle and his Pampers ready. I was just talking to him, not realizing anything suspicious or anything, except that I noticed that he didn't jump up when I touched him like he usually did. He was laying on his stomach—but when I turned him over, I looked at him and screamed because I knew something was fishy. One side of his face was blue and his nose was mashed in."

She looked at the baby again and ran next door to her neighbor's apartment. The neighbor returned with her and they called the police. The doctor and the police came, and her son was pronounced dead.

"Working all night and finding your baby dead is a real shock," says Mrs. Brown. "It was like a nightmare; I couldn't believe it. The police asked me a few routine questions that I didn't feel like answering. Afterwards, I kept thinking, 'Was it the aspirin I gave him?' You don't know what I went through. I knew he didn't smother himself because I found him laying on his face, this I knew. I figured maybe he choked on his milk."

It was a week after the death occurred that Mrs. Brown received information and literature concerning "crib death" from her visiting nurse, who, unaware of the child's death, had called Mrs. Brown to make an appointment to see the baby. But after reading the literature and contacting other "crib death" parents she met through the National Foundation for Sudden Infant Death Syndrome, Mrs. Brown says she still cannot totally accept and understand the death of her only child.

"I dream about my baby sometimes and frequently I find myself thinking that he is not gone, but merely visiting with friends," she explains. "I know now, of course, that I am not the only mother who has lost a child to 'crib death,' but it puzzles me why babies go just like that. I could understand it better if my child had died of pneumonia or something. But it's hard for me to figure out why 'crib death' only strikes healthy babies. I mean it really puzzles me."

What is a puzzle to Mrs. Brown is a perplexity to the medical and scientific communities as well. For although the research that has been done has helped to further understanding of the phenomenon, "crib death" or Sudden Infant Death Syndrome (SIDS) nonetheless is one of medicine's mysteries yet to be solved. Presently, there is no way to predict or prevent "crib death."

Each year, an estimated 10,000 mothers like Mrs. Brown put apparently thriving, healthy babies to bed, only to find them dead a few hours later. SIDS victims die quickly, quietly and inexplicably.

The syndrome, identified and described in 1969 as a scientific disease, strikes three out of every 1,000 infants born in the United States and about the same percentage of the infant population in other countries. It is the leading cause of death in infants between the ages of one week and one year old. Most of the victims are between three weeks and five months of age, with the syndrome, cresting between the second and fourth months of life. The syndrome, which strikes boys more often than girls, rarely occurs after the sixth month. It is most prevalent in late autumn, winter and early spring when colds are common.

Although SIDS strikes in all segments of society regardless of race or economic status, it has been found that it has a higher incidence rate among non-white babies, families of low socio-economic status, children living in crowded dwellings, premature infants, and babies who have had recent colds. Death always occurs while the infant is asleep.

Compounding the tragic effects of SIDS itself are widespread misunderstanding and ignorance on the part of some physicians, relatives, friends and even misinformed public employees, such as policemen and firemen, who add to the distress of parents and make them feel guilty.

Take, for example, the experience of Mrs. Nina Clarke, another Harlem resident who lives not far from Mrs. Brown. Mrs. Clarke says the death of her two-and-a-half-month-old son, Jason, caused a family feud. Jason, who died October 10, 1972, was a premature baby who weighed five-and-a-half pounds at birth. He had doubled his weight at the time of his death and recently had a slight cold. The Clarkes have a daughter, Ronda, two.

"When Jason died," she recalls, "my mother-in-law made all kinds of accusations. I was accused of not keeping my child in the hospital long enough after he was born; of not taking care of the baby. I was even accused of killing my own baby! My mother-in-law didn't believe in the existence of 'crib death,' and probably would not believe that it existed to this day if she had not seen a special documentary on television. When some of my neighbors first heard about it, they thought the crib had something to do with it, and started throwing their cribs away."

Fortunately, Mrs. Clarke herself was not totally unfamiliar with the disease when her son died; she had read articles and had heard about it on television. Her physician also was familiar with the disease. Yet, she says she still felt guilty.

"I breast-fed my daughter, but not Jason," she says, "and I had let Ronda sleep in the bed with me that night while Jason remained in his crib. Black men take the death of their children so hard. They feel the woman's duty is the children and the home, and if anything goes wrong, it's all your fault. My husband took Jason's death much harder than I. He was so proud of his son. Ronda cried and screamed every night for two weeks after Jason's death, and would ask me constantly, 'Mommy, where's the baby?' I was in shock, too, but I tried to accept the death and be calm because I believe God won't put no more on you than you can stand. I remember reading an article on SIDS which told of a white couple who never went back to their apartment after their baby died. But when you're black and poor, you have no alternative. You have to face up to it and go back home and keep on living."

While Mrs. Clarke was made to feel guilty by relatives, other families report abrupt and callous treatment by the police. Within the last year, there have been at least four cases, including a couple presently under indictment in Washington, D.C., in which the parents were held for murder after their babies died of "crib death," according to Dr. Abraham B. Bergman, president of the National Foundation for SIDS.

"The thing that still rankles me," notes Dr. Bergman, associate professor of pediatrics at the University of Washington in Seattle, "is when I was called last spring to testify in the case of a young black couple in New York City." In that case, both a mother and father were charged with "criminal neglect-homicide" after their son died. Both parents spent months in jail because neither could raise $1,000 for bond. They were finally released, however, when the medical examiner testified at the trial that the little boy's death was "consistent with crib death."

"We have found the treatment of parents of SIDS victims to be particularly bad for poor people who have no private physician," says Dr. Bergman, who supervised a study of the handling of SIDS cases in 450 cities last summer.

Dr. Bergman contends there are few communities in the U.S. where SIDS families are treated by public officials who are both knowledgeable about SIDS and sensitive to the feelings of grieving parents. The study reveals, he says, that only 40 percent of the black parents whose babies died of SIDS had heard about the disease previously. Only 50 percent of the black parents received any information as to why their babies died, as compared to 75 percent of the white parents. About 20 percent of the black parents thought their babies had suffocated.

The pediatrician would like to see passage of a bill introduced by U.S. Senator Walter F. Mondale, which would set up a federal grants program to provide funds to local communities to perform autopsies on all babies who die. Congress appropriated funds for the program, he says, but President Nixon vetoed the measure. He also would like to see widespread adoption of a program at the Children's Orthopedic Hospital and Medical Center in Seattle, where he works. The Seattle program performs autopsies in all unexplained infant deaths, assures that the correct terminology of SIDS is used on death certificates, promptly notifies parents of the cause of their child's death, and follows up with counseling to explain to parents why they are not to blame.

A former SIDS researcher, Dr. Bergman has become more involved with the "human aspect" of the disease because "this is the area in which something can be accomplished," he says. "We won't be able to find a cure for SIDS for a long time." He believes the scope of research finding during the past decade has established only two things—first, that SIDS is a real disease entity, and secondly, that the disease is definable by autopsy.

"We don't know why poorer families have a higher incidence of 'crib death'; we don't know why the incidence is higher in blacks. We're really just speculating," he explains. "This is a tough concept to get across because a big baby from a rich family may die, and

often does die, of 'crib death,' but a premature baby from a poorer family is *more likely* to die of the disease."

Although one study has shown that the incidence of SIDS is higher among blacks on all socio-economic levels, Dr. Bergman refutes this concept, saying there is not so much a higher racial incidence as a socio-economic one. "In one study in Washington, D. C., where there are a significant number of middle and upper class blacks," he says, "it was found that the incidence of the disease among black middle and upper class families was nearer to the white ratio. We don't think it's a genetic disease."

The exact cause of SIDS has not been identified, and many of the earlier theories—including cow's milk allergy, breast-milk allergy, and "whip-lash" injury to the spinal cord—have been disproved.

"We now know that viruses are involved, but they're the same kind of viruses that cause common colds; it's not a killer virus," Dr. Bergman notes. "This viral infection, we believe, makes the baby more susceptible to 'crib death.' About half the victims have a cold in their histories, but very minor colds."

Through his autopsies of SIDS victims, Dr. Bruce Beckwith, a pathologist on the Seattle team of researchers along with Drs. Bergman and C. George Ray, a virologist, has discovered a pattern of hemorrhagic spots the size of a pinhead in the lungs of victims. He also has found slight swelling in the infants' throats. A pediatrician, Dr. Alfred Steinschneider, associate professor of pediatrics at the State University of New York State's Upstate Medical Center in Syracuse, has proved that low-birth-weight babies have less stable autonomic nervous system controls than other infants. This system controls the involuntary muscles, such as the windpipe and the larynx.

"The Seattle group theorizes that the infant's vocal cords slam shut during sleep, cutting off the air wave suddenly without warning. The baby doesn't suffer, doesn't feel anything," Dr. Bergman reasons. "In order for this to occur, the baby has to be susceptible to the happening through some nervous system mechanism, something in the brain. The viral infection makes it more likely to occur, but there are other factors which we don't know about." (This theory is not universally accepted.)

He likens the occurrence to a nuclear explosion in which everything has to come together at once for the event to occur. "We think it's like when you plug in a toaster, an iron and an electric mixer. When you put on the last thing, the fuse blows. You can't say any one thing causes the fuse to blow; it's a combination of all these things together."

In addition to studying the role of viruses in the disease, researchers are probing "sleep physiology"—patterns of infant breathing during sleep—and working with infant monkeys who also have been found to be susceptible to the disease.

Although SIDS is believed to be as old as the Bible itself, there is still only a "tiny" amount of research into the problem, Dr. Bergman says. A little research was done in the 1930s and '40s, but it wasn't until the 1960s that organized research programs began.

"This happened only because of the agitation and protests of parents," he says. "The medical profession did not take the initiative in organizing the research. What happened is that the babies of a couple of prominent people died."

Dr. Bergman feels that the main problem in research SIDS is the lack of trained scientists who are willing to devote their energy to the problem, and he believes that federal funds for research go mainly to diseases that "kill older politicians." After all, he reasons, "Children don't vote, and the parents of SIDS victims often are young and poor."

He says he is disappointed that not too many blacks are actively involved in NFSIDS activities, but a Chicago couple is seeking to interest more blacks in the problem. Mr. and Mrs. Elbert Dumetz, who lost their two-and-a-half-month-old daughter, Cherease, to the disease on January 16, 1970, are attempting to establish an NFSIDS auxiliary for nonwhites. They may be contacted through the Chicago office of the National Foundation for SIDS, 203 N. Wabash Ave., Chicago, Ill. 60601.

Despite increased publicity regarding SIDS, many doctors warn that parents of infants should not become unduly overanxious or apprehensive about "crib death." The sudden, unexpected death of a healthy baby is a very remote hazard to any one family; every infant who gets sniffles is not a candidate for SIDS and is not a cause for alarmed parents to sit up all night watching the child.

In an age when babies have never been safer, it is indeed tragic that new scientific findings about SIDS have not led to a program for preventing the phenomenon. Yet, this knowledge has proved invaluable in stripping away some of the mystery surrounding the disease, and eradicating much of the guilt feeling and panic that SIDS evokes.

DEATH OF ORIEN W. FIFER, JR.

Mr. FANNIN. Mr. President, Mr. Orien W. Fifer, Jr., outstanding editor and columnist but most of all a newspaperman's newspaperman, died at his home in Phoenix, Ariz., on September 8, 1973, following a lingering illness of almost 1 year.

Mr. Fifer was a man whom I admired and respected and whose writing gave me pleasure, but no eulogy which I could recite would come close to expressing the true greatness of the man.

His peers in the newspaper field have expressed their feelings as well as mine and thousands of his loyal readers in news accounts of his passing and in editorial tributes.

I ask unanimous consent to have printed in the RECORD these news stories as well as editorials from the Phoenix Gazette, the Arizona Republic, the Scottsdale Progress, and a letter to the editor of the Phoenix Gazette.

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

ORIEN FIFER, COLUMNIST, DIES

Phoenix Gazette columnist Orien Fifer died at 8:30 a.m. today at his home, 830 E. Sierra Vista, after a lengthy illness.

Mr. Fifer, a veteran newspaperman, had been released from a hospital 10 days ago. Kidney failure was the cause of death.

Services will be at 2 p.m. Tuesday at the Church of the Beatitudes, 555 W. Glendale Ave. The Rev. Culver Nelson, pastor, will officiate.

A. L. Moore & Sons Funeral Home will handle arrangements. There will be no visitation there.

"Fife," as he was affectionately known, had been in ill health for several months. He was 70.

Mr. Fifer came to Phoenix in 1952 as managing editor of The Arizona Republic. Eight years later, he became the day managing editor of that newspaper. In addition to administrative duties, he began writing a column for The Republic.

In 1966, he switched to The Gazette as a five-day-a-week columnist. His column appeared on the second first page.

His writing covered a wide variety of human interest subjects. He consistently championed the cause of the "underdog," including inmates at the Arizona State Prison, patients at the Arizona State Hospital and the underprivileged.

Eugene C. Pulliam, publisher of The Arizona Republic and The Phoenix Gazette, said:

"Orien Fifer was a newspaperman who always had the goodwill and respect of his fellow journalists. 'Fife,' as he was known all his life, was a dear and close friend of mine. We had so many, many things in common. Our fathers were both Methodist ministers. We both attended DePauw University. We had a close personal, social and professional relationship for almost 40 years.

"Fife was a top editor in our organization, both here and in Indianapolis, for almost 40 years. In all the years of our association we never had a serious argument except when I tried to get him to watch his health.

"As a writer, Fife was unique. He had a delicious sense of humor, but on serious reporting he was extremely accurate and demanded the same quality from the reporters who worked under his watchful eye.

"What can you say about a dear friend who is gone, but to recall the many, many things he did to make life happier and more interesting for those around him."

Mr. Fifer was born in York, Neb., the fourth child of a Methodist minister.

He spent nine of his first 10 years in Des Moines, Iowa, where his father was pastor of Grace Church. The Fifer family also resided a few years in Denver, Colo., where his father served the Warren Memorial Church.

When young Fifer was in Denver's Manual High School, the Rev. Mr. Fifer Sr. was called to a pastorate in Indianapolis, and the change put Orien Jr. in the city's Shortridge High School. There he wrote for the school paper and, as a senior, played football.

After high school, Mr. Fifer enrolled in DePauw University in Greencastle, Ind. There he eventually became managing editor of the student newspaper, a cartoonist, writer and editor of the humor magazine, a class president and a member of Beta Theta Pi and Sigma Delta Chi, the journalism society.

During World War II, Mr. Fifer served in the U.S. Navy as a public relations specialist with the rank of lieutenant commander.

His first experience on a big-time newspaper came during a summer vacation from DePauw when he was hired as a cub reporter on The Indianapolis Times.

When he was graduated from DePauw in 1925, Mr. Fifer was hired by The Indianapolis Star. He spent 18 months on The Star before going to work for The Associated Press in Chicago. After being assigned, in rapid succession to AP bureaus in Madison and Milwaukee in Wisconsin and to New York City, he returned to Indiana.

There on The Indianapolis News, Mr. Fifer rose from reporter to assistant managing editor.

While Mr. Fifer was managing editor of The Republic, the newspaper won the National Bell Award for a series of stories on the Arizona State Hospital. And in 1969, "Fife" won a $1,000 first-place award in an awareness of safety contest sponsored by the National Trucking Association. The award was for a column he wrote after seeing an elderly man killed in a traffic accident.

Mr. Fifer was called on frequently as a public speaker. He was active in community affairs as a member of the Maricopa County Hospital Board, the Advisory Board of The Salvation Army, The Phoenix Press Club and the Valley of the Sun Chapter of Sigma Delta Chi. In 1967, he was Maricopa County chairman for the Cancer Crusade.

He is survived by his wife, Mary; two daughters, Mrs. Saul Bernstein, Thousand Oaks, Calif., and Mrs. Murray Hutchison,

Palos Verdes Estates, Calif.; a stepson, Steve Elam, and four grandchildren.

GAZETTE COLUMNIST ORIEN FIFER DEAD AT 70 AFTER LONG ILLNESS

Orien W. Fifer, Jr., former managing editor of The Arizona Republic and a columnist for both Phoenix newspapers for many years, died in his sleep yesterday morning.

Death, from kidney failure, came to the 70-year-old editor and writer at 9 a.m. in his home, 830 E. Sierra Vista Drive in Phoenix.

A warm, gentle and gregarious man, known to hundreds of his colleagues and other friends as "Fife," the veteran journalist had been ill for almost a year.

For the last 13 years, his touching, down-to-earth columns had recorded the fears and foibles, the victories and defeats, the joys and tragedies of countless Arizonans—first in The Republic, most recently in The Phoenix Gazette.

He returned to his home from Good Samaritan Hospital 10 days ago.

Survivors include his wife, Mary; two daughters, Mrs. Saul Bernstein, Thousand Oaks, Calif., and Mrs. Murray Hutchison, Palos Verdes Estates, Calif.; a stepson, Stephen Elam, and four grandchildren.

Said Eugene C. Pulliam, publisher of The Arizona Republic and the Phoenix Gazette.

"Orien Fifer was a newspaperman who always had the goodwill and respect of his fellow journalists. 'Fife', as he was known all his life, was a dear and close friend of mine. We had so many, many things in common.

"Our fathers were both Methodist ministers. We both attended DePauw University. We had a close personal and professional relationship.

"Fife was a top editor in our organization, both here and in Indianapolis, for almost 40 years. In all the years of our association we never had a serious argument except when I tried to get him to watch his health," Pulliam said.

"As a writer Fife was unique. He had a delicious sense of humor, but on serious reporting he was extremely accurate and demanded the same quality from the reporters who worked under his watchful eye.

"What can you say about a dear friend who is gone, but to recall the many, many things he did to make life happier and more interesting for those around him?"

Mr. Fifer's death closed a journalistic career that spanned almost half a century and stilled a writer's touch that merged compassion and understanding with justice and perception.

He was the expert of that subtlety known as "human interest."

And in speeches, Mr. Fifer would describe his purpose this way:

"I consider newspaper work a calling just as much as the ministry, medicine or law. I don't know how it feels to get a commission on a $5,000 insurance policy. But I do know how it feels to print the story that freed an innocent man who was on his way to the gas chamber.

"Every day is a challenge and a different experience. I am in love with my job."

Fifer's love of writing led the public to love his writing and applaud its achievements.

When he published a book in 1964 entitled "The Best of Fifer," a close friend and former Republic columnist, Don Dedera, wrote:

"Heart. That's the vital quality, impossible to fake, that throbs through the writing of Orien W. Fifer."

An editorial in The Republic read:

"While Fife regularly carries on a love affair with the world, he is not a Pollyanna and his columns are not solely of innocence and warmth. Pool sharks . . . skid row derelicts . . . child molesters . . . those who would undermine God with their sacrilegious utterances . . . race track touts—those, too, inhabit the world of Orien Fifer."

Services will be at 2 p.m. Tuesday in the Church of the Beatitudes, 555 W. Glendale, with the Rev. Culver Nelson officiating. Burial will be in Greenwood Memorial Park. Funeral arrangements have been made by A. L. Moore and Sons Mortuary.

Active pallbearers will be Ben Avery, Joe Gilmartin, Hugh Harelson, Dave Nichols, Tom Sanford and Vic Thornton.

Honorary pallbearers are Robert Black, Paul Dean, Don Dedera, Julian DeVries, Robert C. Dunn, Jerry McLain, Edward Mell, Harry Montgomery, Lowell Parker, Pulliam and William R. Shover.

The family suggested contributions may be made to the Orien Fifer Memorial Fund at the Church of the Beatitudes.

Born in York, Neb., the son of a minister, Mr. Fifer spent his boyhood in Des Moines, Iowa, and Denver, Colo., before moving with his family to Indianapolis, Ind.

Following graduation from DePauw University, he worked for 18 months at The Indianapolis Star, then became a special correspondent for the Associated Press in Illinois, Wisconsin and Ohio.

Mr. Fifer joined The Indianapolis News in the early 1930s and became assistant managing editor in 1942.

During World War II, he served as a lieutenant commander in the Navy and was stationed in Honolulu when the war ended in 1945. He then returned to The Indianapolis News.

In 1952, Pulliam named him to replace Eugene F. Williams as managing editor of The Republic. Eight years later, following a brief but severe illness, he became day managing editor and columnist for the paper.

In May 1966, Mr. Fifer moved across the corridors of The Republic & Gazette building and became daily columnist of The Phoenix Gazette.

He helped organize the Valley of the Sun Chapter Sigma Delta Chi, the professional journalism society, and later served as its president. He was president of the Phoenix Press Club in 1964.

The Phoenix Elks Lodge presented him with its annual Community Service Award in 1958. During 1960, he was chairman of the Arizona Associated Press News Study Committee in Arizona.

He was chairman of the 1967 fund-raising campaign of the Maricopa County Unit of the American Cancer Society. Two years later he received the $1,000 first place award in the 14th Annual Newspaper Safety Writing Competition sponsored by the American Trucking Association.

He served on the board of governors of the Arizona Journalism Institute for the 1971–73 period and was a former trustee of the Barrow Neurological Foundation of St. Joseph's Hospital.

FROM FARAWAY FIJI A EULOGY TO "FIFE"

(By Paul Dean)

DEUBA BEACH, FIJI.—The telephone call found me after straining across 6,000 miles and that crazy international date line gap where my Tuesday was your Monday.

The drama of communications across such distance excited the hotel help, Fijians for whom time still tolls by drumbeat These people—gentle, beautifully naive, with thoughts monopolized by positive things—presumed some great happiness in the call.

They were wrong.

The telephone message from the United States said that good friend and Phoenix Gazette columnist and surrogate father Orien Fifer was dead.

There was nothing to do. No hope of backtracking a quarter of the world and being in time for Fife's funeral. No way of hugging Mary, now a widow and easing my sorrow by cushioning hers. No means to find the close contact that would create an acceptance of death, this thing we had been assaulting with stupid, forced humor at Fife's bedside for four critical months.

Nothing to do. But sit alone on a beach, watch an irritable Pacific and wonder if Fife would have written that waves crush themselves to foam. Then light a cigarette, realize that you smoke the same brand as Fife, and change that tense to say you "smoked" the same brand as Fife.

And then I thought precisely of Fife and smiled at how his literary spirit would shudder if any eulogists wrote or spoke about that big newsroom in the sky for a newspaperman's newspaperman.

Yet Fife, although he would have writhed from such cliches, wasn't the greatest writer I've known. Nor was he a thundering intellectual. Nor could he claim all the private virtues that a public assumes of its paragons.

But he was, by several miles and all standards, the nicest guy I have ever known or can ever miss.

Tough, but not hard. Professional, but not cynical. Suspicious, but not calloused. Consistent, but not perfunctory. Understanding, but not gullible.

No man who worked with Fife was allowed to die without a full column for his obituary. Ralph Mahoney. Johnny Johns. Ed Fitzhugh. Mourning for these men was softened by Fife's columns with each written recollection forming a quiet instruction as to what we should all see in our fellows.

Aye, there's the challenge. What do I recollect and write about you, Fife?

Shall I tell how you always called me "kid," complimented my writing but said it would be much better if the Americans I quoted didn't sound as though they spoke with a British accent?

Or shall I talk of calling you "dad" and kidding that if I was ever stuck for a column I'd rent a compass and climbing boots and take a two-day trek though those tumbleweed eyebrows of yours?

Remember those mornings when we were both stuck for columns? You always had a letter or an idea saved for me and I'd always have an outline for a reader's thought kept for you. We'd say to hell with traditions for competing columnists because we recognized each other's knacks with certain subjects.

There were those notes you sent while I was sloshing in some Vietnam paddy. Then birthday cards written for a cripple you'd never met but knew was my father-in-law who read you daily. Then the cash donations you made to my column crusades, always with the warning that you'd sabotage my typewriter if I told anyone.

You were the man I visited for advice before marriage. You were the man my wife visited for advice before marriage. We have only just told each other, this gray day, that we both sought your counsel.

I remember the last hour we spent together, just one evening before flying to this vacation. You hoisted my son on your knee, showed him how to play with a little helicopter toy, sneaked him candies and laughed when he finally chirped: "Sank yoo, Fife."

So on this island, on this beach, with these memories, my sorrow is unhidden. But now I'm not alone. A new friend, a big Fijian called Joe has joined me and asked about the telephone call from home. I've told him all these things about Fife.

"Don't grieve for this man of yours," said Joe, quite carefully. "Remember, his spirit will remain on earth and his example is eternal."

HE WAS "SIMPATICO"

Most newspapermen are hardbitten. They may no longer revel in the toughness of

"The Front Page" but they are more likely to respect Little Orphan Annie than Pollyanna.

Orien Fifer had a touch of kindness and personal friendliness often absent in the makeup of the men who report the news.

As a columnist first for The Arizona Republic and most recently for The Phoenix Gazette. "Fife" devoted himself to such causes as rehabilitating ex-convicts, raising money for the cancer society, helping kids from Phoenix's inner city to visit mountain camps during the summers.

The son of a preacher in Iowa, Fife knew what "the poor box" meant. He worked his way up to the top in the administrative sides of the newspaper business, filling the post of assistant managing editor of the Indianapolis News before coming to Phoenix as managing editor of The Arizona Republic.

But his greatest joy was in writing the human interest pieces that so often helped an innocent victim of man's inhumanity to man. If we had to describe Orien Fifer in one word it would be in Spanish. He was "simpatico."

He could be sympathetic without being maudlin; he could help a prison inmate without wanting to tear down the prison walls. He knew that real charity lay somewhere between the coldness of the professional social worker and the saccharine warmth of a Lady Bountiful.

Orien Fifer died yesterday.

We at The Arizona Republic will remember him as one working newspaperman who never lost his illusions in a business whose hallmark is disillusionment.

ORIEN W. FIFER JR.

Orien W. Fifer Jr. could be described in many different ways. Gifted writer, first-rate editor, patriot, civic leader—all these characterizations and more fit him perfectly. Most important of all, though, he was a man who cared a lot about people.

"Fife," as he was known so affectionately, cared about everybody, the high and the mighty, the low and the powerless. He cared about their hopes and dreams, their weaknesses and disappointments. He cared enough to cry and to laugh, to scold and to praise, to complain and to give thanks.

As readers of his column know, Orien W. Fifer Jr. led with his heart in everything he did. Fife had the keenest of minds, as evidenced by his many achievements, and he was seldom outsmarted in a newspaper career that stretched over nearly 50 years. He was nobody's patsy.

But he had also a rare ability to understand people, especially the losers in life. He could peer straight into the soul, sort out the good and the bad and explain both in rational terms. Never cruelly, though; Fife always managed to accomplish what had to be done with a kindness that was his nature.

In an imperfect world, Orien W. Fifer Jr. relentlessly pursued perfection. In a cruel world, he practiced compassion. In an evil world, he displayed virtue. In a world of hate, he radiated love. Indeed, Fife was a man of uncommon character.

With his death, this community loses a man who always did his best to make this world a better place, and succeeded to a remarkable degree. Phoenix is fortunate that Orien W. Fifer walked this way in life and stayed among us for so long. There are too few like him; he will be sorely missed.

TAUGHT BY FIFER

There was a time I was young. I got into trouble and needed someone to help me. I read Orien Fifer.

As I grew older I found my goals in disarray and confusion my guide. Then, one afternoon, I read of a lady's dog which had died and people's efforts to help her. I read it in Orien Fifer's column.

A friend worked at local gas stations around my house. He did other odd jobs as well, and became well known and well liked by the neighborhood. His name was Joe. I read about his accidental death in Orien Fifer's column.

When a smile was needed we could depend on Orien Fifer. If consolation fitted the times, no one did it like Orien Fifer.

He taught me the value of compassion, the worth of love, and the beauty of life.

I am sorry the future has to grow up without him.

CHRIS GRAUL,
Arizona State University, Tempe.

IT'S "30" FOR FIFE

We do not often write in this space about persons working for the competition. And we seldom discuss fellow journalists here because readers are rarely interested in them. Orien Fifer, who wrote for the Phoenix papers is an exception.

Fife died last Saturday, and a lot of Arizonans will miss him.

This was a unique man. He was a combination of a gentleman, a tough editor, imaginative reporter and a person who genuinely cared about helping others.

Fife had something of the same quality which made the late Ernie Pyle a journalistic legend. He could interpret the joy and tragedy in life, and no person was too humble for his typewriter.

In an era of technology and rush, this was a man who had time for his fellow men. He told the personal stories of people with warmth and wit, and he did not hesitate to prick the pompous and the phonies among us.

No one will ever know how many individuals Fife helped quietly when they were in trouble, or how many younger newsmen he encouraged and taught high standards of integrity and decency. He was an unusual human being who was not afraid to give of himself to other people.

U.S. SANCTIONS AGAINST RHODESIA

Mr. McGEE. Mr. President, with the nations of the world becoming so interdependent, particularly in the area of economics, it is vitally important for the United States to give long-range consideration to its foreign policy initiatives. Within the scope of this concern, one of our first priorites should be to placing the United States back into compliance with U.N. sanctions against Rhodesia.

The United States, as the world's leading industrial nation, is facing the problem of depletion of its natural resources and raw materials. We are fast becoming reliant upon the raw materials of other nations. We also find ourselves confronted by the growing economic giants of Japan and the European Economic Community, both of which present major competitive forces to this Nation in the development of new export markets. Therefore, our foreign policy must begin focusing on the developing nations of the world for two reasons vital to our national interests and our survival as a major economic power.

First, it is an indisputable fact that the developing nations represent a natural resource potential of unrealized magnitude. For example, in the last 5 years the United Nations development program surveys have uncovered natural resources valued at more than $13 billion, most of which are to be found in the developing world. These UNDP surveys have just scratched the surface of resource exploration and discovery.

Second, the vitality of any industrial nation depends upon both the access to raw materials and ever-expanding export markets. Presently, we face serious challenges from both Western Europe and Japan for these markets as both economic giants are focusing increasing attention on the developing world.

If we are to maintain our economic viability, then we are going to have an increasing share of the market potential in these areas of the world. For example, we must turn to the developing nations of Africa and Latin America as a source of both natural resources and export markets. We will become increasingly reliant upon these areas of the world for both. This means we will also have to become increasingly sensitive to the aspirations, concerns, and needs of the developing nations. If we do not, we will be confronted with potentially disastrous problems. If we continue pursuing narrow, short-range objectives that seem attractive at first glance, then it will be the United States who will pay the price in the long run for these shortsighted policies.

The developing nations, unless we become increasingly sensitive to their concerns, have the potential to:

Deny us supplies of crucial raw materials, or divert them to our competitors, or gouge us on the prices they charge for their natural resources. Presently such leverage exists on natural resources such as oil, iron, copper, tin, bauxite, manganese, and many other raw materials.

Confiscate or restrict U.S. investments. These investments in the developing world have reached more than $15 billion, exclusive of oil. This is worth more than $1 billion a year to our balance of payments.

These are but two examples of what could happen to us unless we demonstrate a more enlightened foreign policy. Here again, we are confronted with the issue of continued U.S. violation of U.N. sanctions against Rhodesia.

At present more than 30 percent of our exports go to the developing nations. In Africa and Latin America we enjoy favorable trade balances that cannot be found anywhere else in the world. Yet, our violation of the sanctions has become an increasingly controversial focus of concern in Africa. The two African nations which have become increasingly aggressive on this issue are Nigeria and Kenya—where the bulk of U.S. investments in the black African nations are located. What is particularly significant about these developments is that Nigeria has now passed Venezuela as a major petroleum supplier to the United States. We should not lose sight of the significance of this factor as the present energy crisis in the United States should serve as a daily reminder of our need to maintain access to all sources of petroleum.

Therefore, we are confronted with the following dilemma—whether the United States can continue pursuing a policy forced upon us by a handful of American corporations, which have put forth

dubious and oftentimes misleading arguments for our continued violation of sanctions against Rhodesia, at the potential expense of denying us access to such raw materials as oil, iron, bauxite, copper manganese, and others. I would hope that the Congress would not again become a party to this potentially disastrous policy.

What is the resource potential of black Africa? My source of information is the U.S. Department of Commerce and its year-end report for 1972 entitled "Overseas Business Reports."

The United States presently commands about 10 percent of the export markets in Africa, with the European Economic Community and Japan representing our major competitors. It is apparent the U.S. economic health is contingent upon an expansion of these markets. At the end of 1970, we had more than $3.5 billion in direct U.S. private investment in Africa. It is apparent that our foreign policy initiatives in Africa should be sensitive to the concerns of these nations in order to protect this investment. All we have to do is look at what has happened in Latin America and the price we have paid there for insensitivity.

Now, let us take a look at what individual black African nations can offer the United States in the way of potential raw materials.

NIGERIA

Minerals represent the most rapid growth sector in Nigeria, with oil the leading natural resource. Nigeria has large deposits of tin, coal, marble, and limestone. They also possess large natural gas reserves. The United States investment in Nigeria is several hundred million dollars which is that nation's second largest source of foreign investment. ing, and industrial plants.

KENYA

Direct United States investment is primarily in food processing, petroleum, pharmaceuticals, chemicals, and tire production.

BOTSWANA

Substantial known reserves of copper, nickel, diamonds, and coal. Also small deposits of gold, iron, soda ash, salt, and asbestos. Mining industry has great potential. American investment interest is growing. The United States has a minimal portion of Botswana's import market.

BURUNDI

United States has 4 percent of Burundi's import market. Our private investment is IBM, Texaco, and Mobile, doing mainly retail business. UNDP survey has identified copper, diamonds, and calcareous soils, with mineral production primarily in tungsten, cassiterite, gold, and tantalite.

CAMEROON

The United States has 6 percent of Cameroon's import market. Has important bauxite reserves. Oil, natural gas, copper prospecting continuing. Limited cassiterite, limestone, uranium, barium, lead, zinc, and silver.

CENTRAL AFRICAN REPUBLIC

United States has 6 percent of the import market. Mineral resources include diamonds, uranium, iron ore, manganese, cassiterite, zinc, copper gold, cobalt, platinum, and tin.

CHAD

United States has 4 percent of Chad's import market. United States private investment is primarily in banking, petroleum exploration, and tourism. Mineral exploration continuing with discoveries of oil shale and tungsten.

CONGO (BRAZZAVILLE)

United States has 6 percent of import market. United States private investment limited to manganese ore transport and storage. Production of petroleum from new wells was expected to reach 500,000 metric tons in 1972. High quality potash production. Estimated billion-ton high-grade iron ore reserves. Limited, but increasing gold, tin, copper, lead, zinc production.

DAHOMEY

United States has 6-percent share of import market. United States private investment primarily in petroleum exploration and distribution of petroleum products.

ETHIOPIA

United States has 8.5 percent of import market. Substantial United States private investment in petroleum exploration and space extraction. Large potash reserves with exploration for petroleum and other minerals under way.

LIBERIA

United States has 30.9 percent of import market. United States private investment is estimated to be $201 million, mainly in iron ore and rubber. World's 10th largest source of iron ore with 24.6-million metric tons produced in 1970. Growing importance of diamonds. Largely unexploited reserves of barite, kyanite, gold, and other minerals.

MALAGASY REPUBLIC

United States has 4.9 percent of import market. Some United States investment in petroleum exploration and refining. Minerals include graphite, mica, chromite, and urano-thorianite all of which are mined and exported.

MALAWI

United States has 5.4 percent of import market. Known deposits of bauxite and coal.

MALI

United States has 1 percent of import market. Traces of bauxite, petroleum, uranium, iron ore, gold, copper, manganese and phosphates with surveys continuing.

MAURITANIA

United States has 11 percent of import market. United States private investment is in petroleum exploration and banking. Producing high grade iron ore and copper. Deposits of gypsum, phosphates, and diamonds with exploration for petroleum underway.

NIGER

United States has 7 percent of import market. American private investment in banking, mineral exploration and petroleum distribution. Minerals include tin ore, gypsum, limestone—1,500-ton capacity expected for 1975 for uranium concentrate. Iron ore reserves of about 300-million tons with traces of coal, manganese, lithium, and molybdenum.

RWANDA

United States has 7 percent of the import market. Mineral production in tin oxide, tungsten ore. Columbo-tantalite, ambylgonite and beryl are also mined.

SENEGAL

United States has 6 percent of import market. United States private investment includes distribution facilities of three petroleum companies, offshore petroleum concession, phosphate extraction, and banking. Calcium phosphate production of 1.4-million metric tons, aluminum phosphate production 147,000-metric tons. Limestone, titanium, and salt also commercially significant.

SIERRA LEONE

United States has 8 percent of import market. United States private investment in rutile and diamond mining, an oil refinery, a fishing complex, and a flour mill. Minerals include diamonds, iron ore, bauxite, large reserves of rutile—a titanium ore.

SOMALI DEMOCRATIC REPUBLIC

United States has negligible share of import market. Deposits of uranium are being explored with commercial production confined to salt, charcoal, limestone, and meerschaum.

SUDAN

United States has negligible share of import market. Small scale production of iron ore, chromite, manganese ore, slate, gold, and gypsum.

SWAZILAND

Trade with United States is minimal. Mineral production in 1971 included iron ore—2.3-million tons—chrysolite asbestos—38,000 tons—and coal—151,000 tons.

TANZANIA

United States has 4.3 percent of import market. Diamonds are most important of minerals being exploited. Production of salt, mica sheets, gem stones and tin concentrates increasing. Known deposits of coal and iron which are unexploited.

TOGO

High-grade phosphate production of 1.5-million tons in 1970 with estimated reserves of over 100-million tons.

UGANDA

United States has 7.1 percent of import market. Mineral reserves are principally copper, tin, gold, phosphates, and salt.

UPPER VOLTA

United States has 5 percent of import market. Large deposits of high-grade manganese. Traces of limestone, phosphate, iron ore, copper, vanadium, molybdenum, zinc, bauxite, lead, tin, graphite, nickel/chrome, and gold.

ZAIRE

World's largest producer of industrial diamonds and fifth largest producer of copper. Other important minerals include gold, tin oxide, manganese, zinc. Oil was recently discovered offshore.

ZAMBIA

United States has 10.2 percent of import market. United States private investment principally in copper mining. A ranking world producer of copper with an output of 633.4-million tons in 1971.

Extensive copper reserves. Cobalt, lead, and zinc are also produced.

While this is a brief analysis of the mineral potential of many of the black African nations, I think it is a very vivid portrait of what our stakes are in these nations. Cut off both the natural resource potential and export market potential of these nations, and the United States will be confronted with problems detrimental to the economic well-being of our Nation. I do not take this situation lightly. The potential is there, and the prospects for this potential to bear fruition increase the longer we continue a disastrous and ill-conceived course in international affairs such as our continued violation of U.N. sanctions against Rhodesia. We must take corrective action and we must take it now.

I would warn my fellow colleagues that we must not be misled by the somewhat dubious, and at best marginal, benefits which accrue to a limited sector of our economy because of our continued violation of the sanctions. What we have done is to take a very limited and short-range view of our policy toward Africa with the continued violation of the sanctions.

I believe we stand on the brink of an important economic relationship with the black African nations, from the standpoint of both market potential and access to raw materials. However, this is not a one-way street. In order for us to realize the full benefits of this potential relationship, we are going to have to begin exercising a more sensitive foreign policy in that part of the world. A significant step in that direction would be for the Congress to pass S. 1868.

We have heard statements from many quarters in Congress warning that the time is long overdue for the legislative branch of our Government to play an instrumental role in foreign policymaking. However, rhetoric is easy to come by. The real issue is whether the Congress can, or will, exercise a responsible role in the area of foreign policymaking. The onus is on the back of the Congress and legislative efforts to place this Nation back in compliance with U.N. sanctions against Rhodesia represent a test as to whether we can indeed act responsibly and with enlightenment. After all, it was Congress which placed the United States in this untenable position.

DELAWARE OIC ASSISTS VIETNAM VETERANS

Mr. ROTH. Mr. President, highlighted in this month's issue of American Education is a program sponsored in Delaware by the State's Opportunities Industrialization Center which, through guidance and counseling, has helped over 500 men and women to continue their education in postsecondary schools. By combining two Federal education programs—Upward Bound and Talent Search—Delaware OIC has designed a unique program which is tailored to meeting the needs of Vietnam-era veterans.

I hope my colleagues will join me in saluting the accomplishments of this worthwhile program. I ask unanimous consent that the text of this article be printed in the RECORD at the conclusion of my remarks.

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

FROM THE SERVICE—TO THE CAMPUS

(By Steve Hulsey)

A Delaware project that combines talent search and Upward Bound illustrates a nationwide effort to open education of Vietnam Vets.

Like many another Vietnam veteran, Robert Hilton returned home with no clear idea of what kind of a career he might want to take up and an equally hazy notion of the possible options.

Bob luckier than some in that he did manage to find work—with a burglar alarm company, thanks to his training as an electronics technician with the U.S. Coast Guard. However, he says, "The kind of training I could qualify for in the service was so general that it wouldn't carry me very far in a civilian job, and of course the fact that I had only a high school diploma didn't help, either."

The more he thought about the situation the more convinced he became that his best bet was more education. After an absence of three years in the service, however, he was uncertain as to how to go about applying and felt apprehensive about tackling whatever procedures might be involved. Moreover, though he had been saving from his salary from the burglar alarm company job, he recognized that money would be a problem, too. All in all, the odds seemed so much against him that he came close to abandoning the whole idea.

Bob Hilton's dilemma was resolved by a form letter. It came from the Delaware Opportunities Industrialization Center, it described this private, nonprofit training organization's Veterans Upward Bound program, and it invited inquiry. Bob responded, and this is what happened as a consequence: Counselors at the DOIC/VUB, as the enterprise usually identifies itself, familiarized him with the requirements and procedures for enrolling in a small liberal arts college near his home. Since in high school he had not taken the college entrance examination, they helped him get admitted on a probationary basis to complete the course requirements. They helped him apply for education benefits under the Veterans Administration's GI Bill. And to carry him along until his VA checks began to arrive, they helped him arrange a $150 loan to cover the difference between his savings and what he would have to spend. Bob proved to be a first-rate student, and this fall he plans to transfer—again with DOIC/VUB help—to the University of Delaware to major in accounting.

Bob is one of more than 500 Delaware men and women who have received guidance and counseling from DOIC/VUB, and they are in turn among an estimated 40,000 who are being helped by somewhat similar operations run by institutions or organizations in locations marked by high concentrations of unemployed or underemployed veterans. With the support of funds authorized under Title IV of the Higher Education Act, five pilot Veterans Upward Bound projects were established last year. They quickly proved their worth, and today 67 such projects are operating in 41 States, the District of Columbia, and Puerto Rico.

The Delaware program is the only one that is statewide, and it is unique also in that it is administered by an Opportunities Industrialization Center, an agency rather than an educational institution. The first such center was founded in 1964 in Philadelphia to provide free job training and to help disadvantaged persons find jobs. Like the VUBs, the OICs have expanded, there now being 105 of them in the United States and seven overseas.

Despite its name, the VUB component includes not only the Office of Education's Upward Bound program but its Talent Search program as well, these having been adapted to the particular needs of this special "client." The program is designed primarily for Vietnam-era vets (though assistance is also given to veterans of other wars, and their families), and though the focus is on education, in practice it deals with just about any veteran-connected problem.

Talent Search identifies disadvantaged veterans who have a capability for postsecondary education and encourages them to return to school, and also publicizes GI Bill educational benefits and other available financial aid. Upward Bound helps such vets get high school certification, arranges for whatever tutorial or remedial assistance they may need, and seeks to move them into a postsecondary setting, either for vocational training or for academic study in a college or university. The latter involves some special problems.

Many vets, says Eugene N. Cannon, director of DOIC's Veterans Upward Bound program, feel apprehensive about getting back into the classroom and competing with "regular" students. Most have been out of school for a long time and have lost the "feel" of attending classes and studying.

"Just about every veteran we deal with is bothered by having gotten out of the academic flow," Cannon says. "Moreover, though they want to get an education, they are adults now and have adult responsibilities." Most support themselves, many have acquired automobiles, and some have families. Most seem to have shut off all avenues other than that of finding a job. VUB seeks to open up, through counseling and training, the option of getting an education.

"We showed one vet," says Cannon "that he would be making less on a $2.25-an-hour job he was interested in than he would get on the GI Bill while he was getting an education."

Members of the DOIC/VUB staff do not always have so cogent a dollars-and-cents argument to offer, but their batting average is nevertheless high. Many are Vietnam-era veterans themselves. They understand the problems that other veterans face, they are persuasive advocates of VUB services, and they are experts in how to put those services to best use.

Typical of the young people they deal with are George Wilson, James Fitzpatrick, and Priscilla Graham. Wilson spent three years in the Army as a supply clerk. He had a high school diploma, but when he returned home in July of 1971 he was able only to find work "doing odds and ends." At the urging of a friend he entered a DOIC program set up to train technicians in industrial chemistry. VUB staff members helped him apply for GI Bill benefits. And as the training sessions neared an end, they taught him how to fill out job application forms and coached him in how to be effective in job interviews, down to such details as how to dress for such an encounter.

Wilson is now part of a four-man crew that operates and maintains extruding equipment used to manufacture new plastic materials at the Marshallton, Delaware, plant of Hercules, Incorporated, one of the world's largest chemical companies.

"I couldn't have got the job without the DOIC/VUB programs," Wilson says. "I'd probably still be looking."

Much the same series of events led James Fitzpatrick, who had been a reciprocating-engine mechanic in the Air Force, to become a fellow member of George Wilson's crew at Hercules. Upon his discharge in 1971 Jim wanted to work for a local aviation firm but discovered it was laying off workers rather than hiring them. He then took a course in welding, only to find that welding jobs were scarce in that area, too. Then through an advertisement in a local newspaper he learned of DOIC/VUB and sub-

sequently enrolled in its industrial chemistry technicians training program. Illustrative of the uncertainty that many veterans feel is that Jim remembers—perhaps more vividly than anything else about the DOIC experience—the help he and George Wilson received in learning how to fill out job application forms, and above all how to handle the tense business of going through an interview. That they learned well is testified to by their supervisor, Gerald H. Zimmerman. "They knew what to say and what not to say," Zimmerman recalls, "And subsequently they demonstrated that they knew how to accept the responsibility of a job."

Like Jim Fitzpatrick, Priscilla Graham made a couple of false starts before DOIC/VUB helped her find her niche. Priscilla had been a nurse's aide in the Women's Army Corps, but when she was discharged she decided she would like an office job. So she completed a course at a data processing school to become a key punch operator, only to discover that the job market for key punch operators was so tight that only experienced people were being hired. She was unhappily working as a waitress when she learned of the DOIC/VUB. There she entered a training program to learn typing, accounting, and the operation of business machines, the staff having meanwhile taken her through the ropes of applying for GI Bill benefits. When a local bank subsequently called DOIC/VUB with openings for teller trainees, Priscilla was recommended by her instructor and landed a job in the bank's computer center. Currently, on the advice of a DOIC/VUB counselor, she is also a part-time student in banking courses at a local vocational college.

"In the job I have now," she says, "I can go as far as I want to. I can move to other departments and get more experience, and when the right time comes I think I can get a supervisory position."

DOIC's Veterans Upward Bound program got under way in July of 1972 with an initial Office of Education Talent Search/Upward Bound grant of $60,000 (later boosted to $85,000) and the mission of serving unemployed veterans throughout Delaware. Inquiries about the VUB program began to come in even before it officially got started, says Cannon. Nearly 70 veterans were enrolled in the first three-month training courses devoted to college preparatory subjects, with a large backlog of others waiting for the start-up of vocational sessions. Meanwhile DOIC/VUB was establishing itself as a kind of "sub-VA," offering special counseling and advice and volunteering help on just about any veteran-related problem. With an office in each of Delaware's three counties, DOIC/VUB now provides Delaware veterans with 24-hour service and the assistance offered has ranged from providing benefits information for the widow of a Spanish-American War veteran to helping an enterprising Vietnam vet negotiate a loan to build an apartment house.

Since a year ago, when Delaware had an estimated 10,000 Vietnam-era veterans, the DOIC/VUB's potential clintele has been increasing at a rate of about 150 per month. Each receives a letter describing the program (the same letter that captured the attention of Bob Hilton) and letting it be known that DOIC/VUB is ready to lend a hand. Those that enroll in the program can get basic instruction in math and English as well as take vocational training or college preparatory courses.

A DOIC staff member known as the "job developer" keeps track of employment opportunities available in the community and maintains a "job bank" that not only serves the trainees but is used as the basis for adjusting the curriculum, toward making sure that the training programs reflect employer needs. Local industries have in turn agreed to interview DOIC/VUB trainees before advertising new job openings.

What happens to the young men and women exposed to the program is indicated by a survey of an initial group of 210: 89 had been placed in jobs, 15 were still in DOIC/VUB training programs, another 15 were taking on-the-job training, 80 had entered a college or university, and the remainder were doing preparatory work toward enrolling in a postsecondary institution this fall.

Those that enter the University of Delaware can receive further assistance under the Special Services for Disadvantaged Students program, also funded under Title IV of the Higher Education Act. These services, operating at the college level, include tutoring, help with applications for GI Bill benefits, and counseling not only as to course work but social problems as well.

Because the Special Veterans programs are so new, no statistics are available as to the performance of DOIC/VUB men and women who enter college or undertake vocational training at the postsecondary level. However, the veterans seem to be at least average students and may be somewhat above average. So says the Office of Education's Prince Teal, Jr., veterans coordinator for Delaware and other States included in OE's Region III.

"There is no question but what the Talent Search/Upward Bound approach works," Teal says, "and it helps not only the veterans themselves but the institutions they attend. In some ways it is a kind of unofficial arm of the institution's administration. Veterans today make up a large segment of many undergraduate student bodies—25 percent or more in some places—and it would seem important that these institutions use some of their funds to establish programs that specifically concern themselves with the needs of veterans in the fashion that VUB does. Many colleges apparently are not aware of such things as that the VA will pay tutorial fees for veterans of up to $50 a month."

As the Delaware example demonstrates, moreover, VUB's potential for helping veterans is just beginning to be tapped. As director of DOIC's Veterans Upward Bound program, Eugene Cannon is now seeking to bring its benefits to eligible veterans who are inmates of the States prison. At Delaware State College, campus veterans' clubs are being organized toward building *esprit de corps* and giving these young people an opportunity to share their experiences and aspirations; other veteran-oriented projects are being planned.

"The transition from the service back into civilian life presents some problems for any veteran," Cannon says, "but particularly for those from disadvantaged backgrounds. They recognize that they need more training, more education, if they're not going to wind up in dead-end jobs. And yet they're not sure they can handle it, or even how to go about getting started. That's what VUB is all about. We want to dig out the God-given talent these young people have and then help them exploit it.

"The Vietnam-era veteran represents a major resource for this Nation. We don't want to see it go to waste."

FOR FURTHER INFORMATION

Readers wanting more information about the Veterans Upward Bound or Talent Search programs should write to: Upward Bound/Talent Search, Director, Division of Student Assistance, USOE Room 4100 ROB, 400 Maryland Ave., S.W., Washington, DC 20202.

THE NEED FOR PUBLIC FINANCING

Mr. CLARK. Mr. President, last week the Senate Subcommittee on Privileges and Elections held hearings on the subject of public financing for political campaigns. Under the able leadership of Senators PELL and CANNON, the subcommittee heard from a number of public officials, concerned citizens and experts in the field. Almost unanimously, they called for some form of public campaign finance, usually in concert with limited private contributions.

In an excellent editorial yesterday, the Washington Star-News took an even stronger position, advocating—

Total public financing of campaigns for all federal offices, in both primary and general elections.

The editorial continues:

To many observers, no doubt, a change of that magnitude will seem beyond the limits of possibility, given Congress' many divisions on the subject, and the natural inertia that still could sidetrack even the milder proposals. But we think public financing has got to come in the end. For the profit stakes in the influencing of government are so high that great ingenuity will be exercised to defeat the intent of restrictions, if private bankrolling remains anywhere in the picture . . .

So why not go all the way—avoid the enforcement uncertainties of a mixed system by allowing only public funds in politics?

It is a question, Mr. President, which we will have to face and hopefully answer, in the 93d Congress.

Mr. President, I ask unanimous consent to print the entire text of the editorial in the RECORD.

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

THE BEST WAY TO FINANCE ELECTIONS

Over and over we keep hearing it from scandal-weary Americans: "What good can come out of Watergate?" The damage, true enough, is heavy and its full measurement still cannot be taken. But nonetheless, we think there are at least two answers to the recurring question that lend a good deal of encouragement.

First, this painful experience is showing that the system works, to expose and crack down on political wrongdoing, bringing even the mightiest to account for their acts. This is no small reassurance. But going beyond it is an even more encouraging development—the growing momentum for reform which is powered by reaction to the scandals.

This thrust, if it goes far enough, can freshen the whole political environment and bring a renewal of faith in elected government. Assuredly, the difficulties in such a task are awesome. But the commitment seems to be getting stronger every day—at least in the Senate, where reform enthusiasm is most manifest. Its hearings last week on proposals to clean up the political system through public financing of campaigns were remarkable for the idealistic intensity of many legislators' appeals.

In fact, the Senate already had taken a dramatic step, weeks earlier, in passing a campaign reform bill of unprecedented severity. By voting for a $3,000 limit on individual campaign contributions, and numerous other stringencies, the senators delivered hard blows at a system that put most of them where they are. Very rarely in history have political people been moved to do anything like that. It reflected an acute appreciation of what the Watergate syndrome amounts to, on the political Richter scale of trauma. But, fortunately, there also is wide realization in Congress that these reforms, needed as they are, don't go nearly far enough.

So the movement for public underwriting of federal races is off to a much faster start on Captol Hill than anyone would have predicted a few weeks ago. This week, 33 senators endorsed eight "basic principles" that

include a mixture of public and private campaign financing, with emphasis on a low ceiling for private donations. Under a variety of plans being discussed, small givers would be the only givers, whereas at present they often account for no more than 10 to 20 percent of funds raised to conduct a major campaign. So quite a turnabout is envisioned.

We have a foreboding, though, that even these formulations may be much too weak, in view of the rejuvenation that's required if public doubts about the integrity of government are to be measurably reduced. We suspect that Senator Dick Clark of Iowa was right on Thursday when he told a Senate Rules subcommittee that private financing "probably is beyond reform, beyond rehabilitation, beyond reconstruction." And though he didn't quite advocate such a plan, we think the target should be total public financing of campaigns for all federal offices, in both the primaries and general elections.

To many observers, no doubt, a change of that magnitude will seem beyond the limits of possibility, given Congress' many divisions on the subject, and the natural inertia that still could sidetrack even the milder proposals. But we think public financing has got to come in the end. For the profit stakes in the influencing of government are so high that great ingenuity will be exercised to defeat the intent of restrictions, if private bankrolling remains anywhere in the picture. In the past, before Watergate, campaign laws were flagrantly ignored, or circumvented by various mechanisms. A few years after Watergate, enforcement may well lapse again. And we can be fairly certain that some interests would be trying to organize even limited private donations in such a way as to put a stamp of obligation on the office-seeking recipient.

So why not go all the way—avoid the enforcement uncertainties of a mixed system by allowing only public funds in politics? Too expensive, some will say reflexively. But the total cost of the presidential race and all congressional campaigns last year was something less than $225 million, which would be a rather small item on the scale of federal spending. It amounts to about a dollar for every citizen of the United States. The protection of removing private donations that are made to tilt the decisions of government would, at the price, be a tremendous bargain for the taxpayers.

Some other objections, though, point to rigorous tests of statecraft in devising any such program. How can a public financing law be equitable, and still prevent a flood of minor candidates from entering races just because federal money is available? Congress should be able to work out rules that are stringent enough to prevent widespread abuses, yet generous enough to assure that serious candidates are not short-changeed. This will not be easy, though. Another problem is the advantage enjoyed by senators and representatives already in office, who are usually hard to unseat unless their challengers raise a great deal of money. But the other side of this, a recent study report shows, is that incumbents under the present system generally are capable of raising far more campaign money than their opponents.

Public financing would not remove all inequities, but it could balance the advantages between the "ins" and the "outs" better than the present system does. Incumbents in Congress, however, have one sizable exposure advantage in the free-mail privilege, which should be extended in some degree to their opponents. And some reform-minded people fear that if office-seekers no longer have to solicit money from the populace, they simply won't put out a very vigorous effort to meet great numbers of people, and the voters won't feel as involved. Well, the burning desire to get elected should be sufficient to energize the candidates, and small contributions are all too scarce anyway, as things how stand.

And as to public involvement, there are some ideas for stimulating that, too. Senator Hugh Scott, the Republican majority leader, and Senator Edward M. Kennedy have legislation that would allow a doubling of checkoffs on federal income tax returns to support a public campaign financing system of large scope. Admittedly, the existing $1 checkoff for political party support has been a flop in its first year, but public support might swell in a new context of sweeping reform. In any case, if this source of funding should fall short, the Treasury would make up the difference, and candidates for federal offices would not have the option of using private monies. This measure falls short, in that it does not apply to primaries, but it is a very good start.

Of course a blending of public and private financing, with severe limits on the latter, would be better than no reform at all. But the public deserves the very best remedy available for the poison of special-interest money that corrupts its political institutions. If Congress takes maximum action before the momentum of Watergate subsides, it will be giving splendid proof that the country is capable of renewing itself. The country desperately needs such a demonstration.

FOREIGN AID IN AN INTERDEPENDENT WORLD

Mr. HUMPHREY. Mr. President, Sunday's Washington Post carried an editorial calling for "A Responsible Foreign Aid Policy." This editorial emphasized the need for "creating the mutual confidence in international relations which is required in a time of détente."

The editorial supported the new approach to foreign aid expressed in the Foreign Assistance Act as a way of furthering cooperation between the United States and the less developed countries in meeting the needs of the world's poorest people. It pointed out that our approach to foreign assistance has become increasingly sophisticated over the years and that our expectations have become more realistic. The new foreign assistance legislation soon to come before the Senate reflects both what we have learned from experience about the effectiveness of foreign assistance and what we believe to be the purpose of foreign assistance in an era of détente—to help build a cooperative relationship with the less developed countries in dealing with worldwide problems.

The editorial also stated that U.S. support for the regional development banks is essential to implementing a policy of cooperation with the less developed countries. It pointed out that "of $15 million previously pledged to the African Development Bank, not a nickel has yet been forwarded."

If we are serious about the need for greater international cooperation in economic development, we must support efforts such as those of the African states to develop common solutions to their economic development problems.

I recently introduced legislation, S. 2354, to meet our pledge to the African Development Bank.

Mr. President, I ask unanimous consent that the Washington Post editorial on foreign aid be printed in the RECORD.

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

A RESPONSIBLE FOREIGN AID POLICY

The United States may never have been better situated to conduct responsible and effective foreign-aid policy. For one thing, very few people have illusions left about what marvels can be performed; experience has produced at last an appropriate modesty and realism, on the part of recipients as well as contributors. Secondly a broader understanding has taken root in the United States of the part which development assistance plays in improving the atmosphere in which issues of trade, money and investments are worked out with the poorer countries. Finally, the agencies and methods of aid have been subjected to hard scrutiny and, although the process of modernization is inherently as political as it is scientific, these agencies and methods have been continuously refined.

In practical terms, what this means is that the Congress is well justified in looking at the various requests for development assistance which are before it now with some substantial confidence. Of these requests, the foreign aid bill is especially interesting. It passed the House and goes to the Senate floor shortly—though, regrettably, with a good bit less money than was voted in the House. The bill incorporates a "new look" meant to steer spending away from capital projects toward programs more directly affecting people's lives—in farming, family planning and the like. This change in emphasis emerged from a deep feeling on the part of many congressmen that aid was not reaching down adequately to improve the living standards of the very poor. Whether the aid agency, which would be renamed the Mutual Development and Cooperation Agency, can in fact carry out the changes directed in the pending legislation is, of course, crucial. The agency's new director-designate, Daniel Parker, who replaced the able and conscientious John Hannah, has yet to be confirmed. He did not have a hand in devising the new approach he will be expected to implement. The agency will be on clear notice, however, that the Congress expects results.

It is through the multilateral development banks, to be sure, that most American development assistance now flows. These banks are not without their special weaknesses, not the least of which is their vulnerability to American political pressure. But they have become essential to the process of transferring capital and technology to the countries least able to generate these resources on their own. Adequate participation in the work of these banks has become, in turn, essential to the world standing of the United States. This has very little to do with the old and simplistic cold-war notion of winning friends and influencng people abroad. It has a great deal to do with creating the mutual confidence in international relations which is required in a time of detente.

The United States is a year behind in putting up its fair share—a share now reduced, by the way, from 40 per cent to one-third—of the World Bank's soft-loan outlet, the International Development Association. The Congress last year approved only half the funds pledged to the Inter-American Development Bank, and it left the Asian Development Bank some $100 million in the lurch. (The Asian Bank and the World Bank, according to Treasury Secretary George Shultz, are prepared to head a group of member nations to mobilize resources from many capital-exporting countries for reconstruction aid to Indochina.) Of $15 million previously pledged to the African Development Bank, not a nickel has yet been forwarded.

This is an embarrassing and disturbing record. These banks represent not only a good part of the future for the countries which borrow from them. They represent essential

strands in the web which ties the United States increasingly tightly to the poor nations of the world. For markets, for investment opportunities, for their resources and in many other ways involving international economic and political cooperation the United States needs firm relations with these nations. Support for the development banks is an investment in our own self-interest.

MEALS ON WHEELS

Mr. PERCY. Mr. President, at noon last Friday, the Senate Select Committee on Nutrition and Human Needs sponsored a luncheon to honor the Washington, D.C., area participants in the Meals on Wheels program. More than 200 recipients and volunteers from all over the metropolitan area came together here on Capitol Hill to celebrate Meals on Wheels Week.

Senator McGOVERN, the chairman of the Nutrition Committee, Senator SCHWEIKER, and I had the honor and pleasure of spending a most enjoyable hour having lunch, visiting, and joining in song with the people involved in the Meals on Wheels program. We served a number of the meals ourselves to demonstrate the fact that the program is successful only because of the tremendous effort of many volunteers.

I spend, as do all of my colleagues, most of my time with the people who are on the planning and administration end of federally sponsored programs. It is therefore a tremendous pleasure for me to have the opportunity to spend some time with the people on the other end of these programs—the participation end. And more than any other program I can think of, Meals on Wheels is a program of participation—participation by the recipients of meals and participation by the hundreds of volunteers who make sure the meals reach the clients.

The tremendous success of Meals on Wheels is based not on the extent of Federal involvement but on the extent of enthusiasm and social concern at the community and neighborhood levels. Meals on Wheels is a people-helping-people program if there ever was one.

At the luncheon, I spoke with dozens of participants who expressed to me their sense of satisfaction in being part of the Meals on Wheels program. Clients who receive meals told me not only of the nutritional benefits they derive from the program, but of the social benefits as well. How important it is to them to have a friend drop by every day or so to deliver a nourishing meal and, as so often happens, to stay for a visit.

But the thing that was most gratifying to me was to have many of the volunteer workers make a special point of telling me how much they themselves benefit from the program. It is not always easy to find a vehicle through which an individual person can make life a little more pleasant for another individual on a one-to-one basis. But Meals on Wheels provides such a vehicle, and I was very pleased to meet today so many of the people who take advantage of the program to enrich their own lives and the lives of others.

The Greater Washington Meals on Wheels Confederation has every reason to be proud of its programs. Similar projects across the country would be wise to look to our local programs as examples of what is possible in communities all across the Nation, and as models of cooperation among individuals, groups, and governments. I hope that next year we will be able to have another Meals on Wheels Week here and another luncheon to celebrate continued local expansion of Meals on Wheels.

Friday's Washington Post carried an editorial describing in some detail the local Meals on Wheels activities. I ask unanimous consent that it be printed in the RECORD.

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

MEALS ON WHEELS

Every day in a community the size of ours, there are countless numbers of people volunteering long hours in the quiet service of less fortunate neighbors, carrying out less than glamorous tasks with little regard for public recognition. Because they perform important functions that governments may not or will not take on, and because most of them use still more volunteer help, the successful service organizations around town deserve more notice for their accomplishments than they usually get. So we're pleased to report that the area's 15 Meals on Wheels programs—which deliver low-cost, nutritious meals to the homebound elderly, convalescent or handicapped people of Greater Washington—are the subject of a special tribute this week.

Meals on Wheels, a nonprofit, volunteer-staffed service, is currently delivering more than 4,000 meals to 400 clients each week. Purposely avoiding "sob sister" or "heartstring" appeals for publicity, more than 800 volunteers contribute time as drivers, visitors, packers, food shoppers, kitchen managers and program administrators to provide hot and cold lunches and suppers for those who cannot prepare such meals for themselves.

The local Meals on Wheels programs, which rely on help recruited by churches, temples and social and civic organizations throughout the region, estimate that more than 5,000 individuals have been served by their operations since they began in Alexandria eight years ago. Now organized to coordinate activities through a Metropolitan Meals on Wheels Confederation, the effort includes plans for four additional programs in the area in the near future.

Even though this coalition served more than 208,000 meals last year to area residents—traveling more than a million miles to deliver the food—leaders of the program estimate that there are some 5,000 additional people here who live alone, are infirm, or live on a small income and do not have the resources to feed themselves adequately.

To draw attention to the need for more community support, officials in the various jurisdictions of Greater Washington have proclaimed Sept. 16–22 "Meals on Wheels Week," culminating today with a fitting tribute to nationwide Meals on Wheels programs from the Senate Select Committee on Nutrition and Human Needs. Committee Chairman George S. McGovern (D-S.D.) and Sen. Charles Percy (R-Ill.), the committee's ranking minority member, are hosting a special dinner for the volunteers and their clients—and the two senators and other members of the committee will do the serving. For more information on the local programs, or to volounteer for service, area residents may call 434–1922 between 10 a.m. and 1 p.m. weekdays.

GENOCIDE IS AN INTERNATIONAL CONCERN

Mr. PROXMIRE. Mr. President, genocide is the attempted destruction of a national, racial, ethnic, or religious group by killing, causing serious bodily harm or mental damage, restricting births, forcibly transferring children, or otherwise imposing upon the group conditions of life designed to lead to its extinction. This is clearly a crime that affects the entire world community. The Genocide Convention with 75 signatories is an attempt to firmly establish in international law the principle that genocide is an international crime. It is an effort with which we must associate ourselves.

Some have argued that genocide is an inappropriate subject for a treaty, and that it should be treated solely as a domestic matter for constitutional reasons. This is simply not true. It has been generally recognized that treaty power extends only to matters of international concern. The fact that the United Nations General Assembly passed the resolution for the Genocide Convention unanimously and that 75 nations have acceded to it, surely makes it a matter of international concern. In addition, the Supreme Court in the famous 1890 Geofroy against Riggs decision stated:

> It is not perceived that there is any limit to the questions that can be adjusted touching any matter which is properly the subject of negotiations with a foreign country.

Charles Evans Hughes, in his famous address to the American Society of International Law, has even noted that treaty power "is not a power intended to be exercised, it may be assumed" for matters of international concern.

Mr. President, in recent years it has become a cliche to discuss the growing interrelationship of world events. Yet now more than ever before the destruction of human life in one country affects those in others. The Genocide Convention thus is a valuable addition to international law. It deserves our support.

CHARLESTON, S.C., AIR FORCE BASE

Mr. THURMOND. Mr. President, about a month ago a prominent article on the front page of the Washington Post indicated that vast amounts of equipment had been buried at Charleston Air Force Base to avoid discovery, during inspection, of excess supplies.

Considerable attention was drawn to this report which originated with a civilian employee. Subsequently, a complete inspection of the base and the charges was undertaken by the Inspector General of the Military Airlift Command. His findings, while not nearly so startling as the charges, received little press coverage.

An editorial, entitled "End of the Story," which appeared September 17, 1973, in the News and Courier of Charleston, S.C., put the matter into proper perspective. I ask unanimous consent that the editorial be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial

was ordered to be printed in the RECORD, as follows:

[From the Charleston (S.C.) News and Courier, Sept. 17, 1973]

END OF THE STORY

Last month a civilian employe of the Charleston Air Force Base telephoned The Washington Post to report that large quantities of usable supplies and equipment had been buried in a dump during preparation for inspection of the base.

The Post sent a reporter to Charleston and his account was prominently displayed in that newspaper. Other newspapers—including the Charleston newspapers—also printed the charges. The wing commander received mail from far and near indicating widespread circulation of the story.

A team of investigators, including Brig. Gen. John H. Germeraad, inspector general of the Military Airlift Command, found no firm evidence to back up the charges. Some usable supplies and equipment were discovered in an area adjacent to the dump. They were wrapped in plastic and authorities are satisfied the intention was to return them to the shop where they belonged when the inspection was completed. The value was estimated at approximately $2,000 by Brig. Gen. Robert L. Moeller, 437 Military Airlift Wing Commander.

The investigators had the dump dug up and a pond dredged. Some people said they had been misquoted, and photographs supposed to have been taken of dumping usable goods were not produced for the investigators.

The outcome of the investigation exonerating local Air Force authorities was published in the Charleston newspapers, but if any follow-up report appeared in The Washington Post and other outside news media which spread the original charges it has not come to the attention of Gen. Moeller or The News and Courier.

After the investigation, Gen. Moeller said that Charleston AFB had been "judged the best in MAC in the Commander's Facilities Inspection. An investigation of the allegations exonerated us and has again proved that we, the personnel of Charleston AFB both civilian and military, are indeed Number 1."

We wish the outcome of the story could have received the same attention as the original charges. This recital of the story is intended to clear the record at least insofar as our readership is concerned.

FEDERAL PAPERWORK

Mr. CLARK. Mr. President, the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, of which I am a member, has conducted a series of hearings on growing problems of paperwork and bureaucratic redtape. As these hearings have progressed, I have become increasingly concerned with the demands the Federal Government makes for an endless variety of data, statistics, administrative reports, and other information ad infinitum, and especially the disastrous impact it has upon the small businessmen of this country.

The testimony before the subcommittee indicates that this Federal paperwork is a factor in the collapse of many small businesses today. It has been estimated that small businesses, such as the "Mom and Pop" type grocery store, must spend at least 100 hours a year, or the equivalent of 2 weeks of worktime to satisfy the paper appetite of the Federal Government.

Mr. President, the Government certainly has legitimate information needs, but not to the degree that is now imposed upon the citizens of this country. The current demand of paperwork serves only to contribute to our most recent environmental crisis: Federal form pollution.

As a result of the subcommittee's hearings, I have joined in cosponsoring three bills to help alleviate the problem. The first is S. 200 which would require the affirmative disclosure in committee reports of paperwork requirements contained in any legislation reported to Congress. This information is currently unavailable and has led to many of the current difficulties.

The second measure is S. 1812 which would transfer the authority for the administration of the Federal Reports Act of 1942 from the Director of the Office of Management and Budget to the General Accounting Office. This would correct the failure of the 1942 act to recognize the needs of small business. It also would allow the Congress to oversee the problems of reporting more effectively.

A third bill, S. 2445, introduced this past Wednesday, would combine the reporting of wages by employers for income tax withholding with old-age, survivors, and disability insurance. It would severely reduce the paper burden imposed by Internal Revenue Service form 941, which costs the Nation's small businessmen some $235 million annually.

The Senate Government Operations Committee held hearings on this particular problem on September 11 and 12. At that time, Senator MCINTYRE, the chairman of the Subcommittee on Government Regulation of the Senate Select Committee on Small Business, appeared on behalf of S. 200 and S. 1812. He delivered a penetrating analysis of the entire problem of burdensome Federal form requirements. I strongly agree with the statement of the distinguished Senator and ask unanimous consent that it be printed in the RECORD.

Mr. President, I hope these bills will be considered favorably by the Senate as soon as possible.

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

STATEMENT OF SENATOR THOMAS J. MCINTYRE

Mr. Chairman and Members of the Committee, it is a distinct pleasure for me to appear before you today to testify in support of S. 200 and S. 1812, two bills which I introduced and which have been cosponsored by other Senators, in an effort to stem the rising tide of government paperwork.

For the past two years the Subcommittee on Government Regulation of the Senate Select Committee on Small Business has been conducting an extensive inquiry and public hearings into the nature and extent of the Federal redtape and paperwork burden and its effect on the economic viability of small businesses throughout the nation.

The information which our Subcommittee received during these hearings I found to be alarming. For example, on May 2, 1972, during a field hearing in Chicago, Illinois, Mr. Dennis O'Brien in referring to the information-gathering techniques of the Federal government, stated that "the tone of the forms (and) the information requested very definitely indicate that the Government has a deep and abiding distrust of citizens generally, and businessmen in particular."

Mr. O'Brien's statement was among the milder criticisms recorded by the Subcommittee on Government Regulation. In our hearings in Chicago, in Boston, in New Hampshire, and here in Washington, D.C., the same refrain of discontent appeared over and over. The message was clear. To put it simply, the small businessman wants to know what happened to that time-honored tradition of "government for the people."

Dr. Edward J. Murry, vice president of Fibra-Sonics, Inc. of Chicago, asserted that the paperwork burden left small businessmen with only two choices: "Take a chance on going to jail or go out of business—since no one-man or 10-man business can keep up and be honest." I am sure all of us hope that this overstates the case. We must remember, however, that the consequences to our nation could be grave if a sufficiently large number of small business owners come to regard such a statement as truth. Judging by the Subcommittee's investigations and hearings this seemingly incredible state of affairs is not very distant in the future.

It is worth noting that those who testified at the Subcommittee's hearings are not radicals. We are talking about businessmen. It is clear their statements reflect frustration, exasperation, and desperation. Mr. William Mashaw, managing director of the National Retail Hardware Association, voiced the concern of hundreds of owners of small hardware stores when he stated:

"We have reached the saturation level and each new law and each new agency at every level of government providing forms is forcing decent citizens into involuntary noncompliance with the law. Now this is tragic when upstanding, honest citizens just can't comply with the laws, and the result is obviously intolerable."

Other witnesses were pessimistic about the very possibilities of survival for small business. Mr. Frederick H. Sleep, Jr., president and treasurer of Tri-County Service, Inc. of Laconia, N.H., stated:

"Small business is the backbone of this country and carries disproportionately the largest burden in many ways—taxes, local responsibility, and compliance with (government) regulations, and we, generally, have the smallest amount of working capital. It is only kept alive by the instinct to survive. In the present economy, there is little or no relief for small business by local, State or Federal regulations. It cannot survive in the present structure."

What casts such a blanket of gloom over small businessmen throughout the country is not only the 130.5 million man-hours required per year to fill out the necessary forms. (These 130 million hours are an estimate of the Office of Management and Budget which may not necessarily be accurate and, moreover, are in addition to the millions of hours required to fill out Internal Revenue forms.) It is the $18 to $50 billion which small businessmen must spend each year to make sure these forms are filled out properly.

The aggregate figures, however, do not reflect the impact of the reporting burden on individual businesses. A one-man business must use 100 hours or over two weeks of work-time per year to comply with Federal reporting regulations. A restaurant grossing $30,000 a year must pay an accountant $820 to fill out forms. In addition, the slightest error may incur fines or the added expenses of audits. A small manufacturing firm reported paying $900 in fines to IRS for being tardy an accumulated 13 days on two tax deposits. Prior to these instances the company had made tax deposits precisely on schedule for 20 years. IRS did not consider the company's extenuating circumstances or its unblemished 20-year record of cooperation.

The expense of compliance with Federal reporting requirements is only a portion of the total cost to the small businessman. Like

everyone else, his taxes continue to rise to pay for the operation of the mammoth Federal reporting and statistical information system. Paper-shuffling costs billions. Based on 1966 figures, the Small Business Committee report placed the cost to the Federal government at $8 billion per annum. This mountain of paperwork at that time filled 4½ million cubic feet of space annually.

More recent figures, however, indicate the cost has almost doubled. The General Accounting Office announced on August 13, 1973, that the Federal costs of writing memos, signing directives, keeping files and issuing reports now total an estimated $15 billion a year. Reports and forms alone account for $3.72 billion of this amount. Official records stored around the country now total 11.6 million cubic feet, or an amount 11 times larger than the volume of the Washington Monument.

At a cost of $15 billion per annum, paperwork accounted for approximately 6 percent of Federal expenditures in fiscal 1973. It now costs $7 billion more per annum to process Federal paperwork than it did six years ago, and $11 billion more per year than paperwork costs in 1955. The astronomical rise in Federal paperwork costs serves to emphasize the urgency of the paperwork problem for small business. I should also like to point out that the cost to the Federal government will continue to rise in light of what we have all been hearing about a real shortage of paper—the paper which will be necessary for all of these Federal forms.

The Federal paperwork report of the Select Committee on Small Business released earlier this year, which I submit for your record, lists a number of recommendations to alleviate the paperwork crisis for small business. Legislative action is, of course, crucial to the solution of this problem. The two legislative proposals now before this Committee are among the recommendations in the paperwork report.

The first recommendation is contained in S. 200, which I introduced in the Senate on January 4, along with 27 other Senators, to amend the Legislative Reorganization Act of 1970 to require all standing legislative committees of the Senate to identify in each committee report on a bill, all new reporting systems required of the private sector by the legislation.

This requirement will alert us, as members of the Senate, to additional paperwork demands which might be placed on small business as a result of pending new legislation. Such awareness will, I hope, result in a lessening of the paperwork burden. Passage of S. 200 may well lead both to the consolidation and the elimination of many of the Federal reporting requirements now in existence and will demonstrate to the small business community that Congress is working to reduce the Federal paperwork burden.

Congress can and should take the lead in cutting Federal redtape. As one of our Subcommittee witnesses pointed out: "The problem originates with the legislation. Congress should see to it that no bill is reported to the floor for action unless there has been full consideration in committee of the paperwork burden."

S. 200 is a positive step toward correcting some of the inequities of our Federal reporting system. I ask each member of the Committee on Government Operations to give this bill his careful consideration.

When the 93rd Congress convened in January, numerous articles appeared about the ensuing battle between the Executive and Legislative branches of the government. In the intervening months, a great deal has been written about the reassertion of Congressional authority. Imperative to any reassertion of Congressional authority, however, is an improvement in legislative oversight of the functions of government. The intent of S. 1812, the second proposal pending before this Committee, would enable Congress to oversee more adequately reporting by the private sector to the Federal government.

S. 1812 would accomplish this end by transferring authority for the administration of the Federal Reports Act of 1942 from the Director of the Office of Management and Budget to the Comptroller General of the United States and by including the Internal Revenue Service under the provisions of this Act.

This bill, which I introduced on May 15, along with 15 cosponsors, is one result of months of study by members of the Select Committee on Small Business. Our investigations into the Federal paperwork burden led us to conclude that Congress must look other than to OMB for improvement in the paperwork crisis.

The Congress has understood the destructive potential of Federal paperwork for a number of years. Thirty years ago Congress sought to halt the proliferation of redtape by enacting a paperwork control law known as the Federal Reports Act of 1942. This law was designed to hold in check the tendency of the bureaucracy to demand ever more data from small business. It sought to eliminate duplication and to simplify government data request forms. It recognized the disparity of resources between small businesses and large firms, which have staffs of accountants and lawyers to process paperwork forms. It sought to protect small businesses from the competitive disadvantage of having to spend precious resources just to comply with Federal statistical and administrative reporting requirements.

Regrettably, the Federal Reports Act does not protect, and has not for some time protected, small business. It is ineffective in controlling the proliferation of Federal paperwork for two reasons: lack of authority over IRS and the weak administration of the Act by OMB.

The Internal Revenue Service affects more Americans than any other single agency of the Federal government. About 35 percent of all Federal reports involving the general public are generated by this one agency. The Internal Revenue Service lists 269 public use forms. Sixty-four of these relate to small businesses. The number of IRS forms applicable to small businesses has more than doubled in the past three years. This proliferation of forms has caused much indignation among many small businessmen. Quoting the "1972 Tax Guide for Small Business" which purports to deal "in sequence, with the starting, operating and *disposing* of a business," a Chicago hearing witness wondered "if this wording means that the Government presupposition is that small businessmen, unable to keep up with the Government's paper tiger, will ultimately fold and steal silently away to join the ranks of the unemployed, or if he is more fortunate, find a job where the Government can keep better track of him and extract his Federal taxes from him as much as 52 weeks before they are due."

Although the small businessman may resent the tactics of IRS, he often complies rather than fight what he considers an unjust assessment. Mr. Irving Cooper, a C.P.A. from Worcester, Mass., explained this tendency by stating:

"It's cheaper not to fight (audits) . . . we settle many IRS cases for minimal amounts, because it is cheaper not to fight. Obviously, small business cannot absorb both the costs of collecting taxes and protecting against them as well."

Such statements indicate that IRS is suffering from eroding credibility in the minds of many small businessmen. The proliferation of tax forms and their increasing complexity contributes significantly to this attitude. If the small businessman's faith in the Federal tax system is to be maintained, IRS must be brought under the authority of the Federal Reports Act.

It would serve little purpose, however, to place IRS under the authority of the Federal Reports Act if administration of the law remains with the Office of Management and Budget. OMB efforts to administer the Act have been woefully inadequate, a fact documented by both Congressional investigations and management studies.

In 1965 the House Post Office and Civil Service Committee concluded that "a major strengthening of (OMB) staffing facilities is the first requisite for correction of the highly unsatisfactory condition of Federal reporting activities."

The following year (1966), the Kaysen Committee, commissioned by the then Bureau of the Budget to appraise certain aspects of the Federal statistical systems, reported:

"As it is presently operated, the statistical system is both inadequate in the sense of failing to do things that should and could be done and at minimum cost, or getting less for what it spends than might be possible."

The Kaysen report details three "major elements of inefficiency" in the system: (1) duplication in the collection of information; (2) the failure to use all of the information potential available in the data collected; and (3) the failure of some of the smaller agencies to make use of modern techniques, professional specialists and automatic data processing equipment.

A report issued in 1968 by the Select Committee on Small Business concurred in the findings of the Kaysen Committee and concluded that Congress must look elsewhere than to the Bureau of the Budget (now OMB) for any improvement in the Federal reporting system.

The 1972 investigations of the Select Committee not only confirmed these conclusions but documented the worsening situation.

Although repeatedly admonished to increase the staff of the Statistical Policy Division which oversees clearance procedure, top OMB officials have consistently refused to do so. In 1965 there were 25 professionals employed in clearance procedure. In fiscal 1973 the number was still 25. These figures contrast with 1947 when the office had 47 professionals.

Understaffing is especially detrimental considering that OMB implements only Section 5, or the clearance procedure portion, of the Federal Reports Act. It is hardly surprising to learn, then, that even the clearance procedure portion of the Act is haphazardly enforced.

Section 5 of the Federal Reports Act requires all Federal agencies collecting information from 10 or more persons other than Federal employees, to submit all forms to be used to OMB for approval. Each form is approved for a specific length of time. If the requesting agency wishes to continue use of the form, it must apply for renewal.

A recent investigation by my staff uncovered 14 expired forms still in use by the Health Services and Mental Health Administration at HEW. So far as we were able to determine, OMB has made no effort to curb the use of these report forms after their expiration.

Such poor administration is clearly in violation of Section 2 of the Act which declares it "to be the policy of the Congress that information which may be needed by the various Federal agencies should be obtained with a minimum burden upon business enterprise (especially small business enterprise) and other persons required to furnish such information."

OMB has also consistently violated the provisions of Section 3(b) of the Act. Section 3(a) specifically "directs" the Director of OMB to investigate the needs of the various

Federal agencies for information and their methods of obtaining such data, and to coordinate the information-gathering services of all such agencies. Section 3(b) further states that if after such investigation the Director finds that "the needs of two or more Federal agencies for information . . . will be adequately served by a single collection agency . . . he shall fix a time and place for a hearing at which the agencies concerned and any other interested persons shall have an opportunity to present their views, and he shall issue an order directing a single agency to collect the necessary data."

The language of the law is not optional. OMB, however, has simply ignored those provisions of the law it considers inconvenient. According to the testimony of Mr. Paul Krueger, acting chief of the Statistical Policy Division, before the Subcommittee on August 2, 1972, OMB has never conducted formal investigations and hearings pursuant to Section 3(b).

At this point, Mr. Chairman, I submit for your record the most current index of Federal public use forms approved by OMB. This voluminous catalog shows the extent of Federal paperwork demands on the public generally. In it, should your Committee staff wish to spend the enormous amount of time that would be necessary for such an examination, is example upon example of duplication and overlapping of information demands of the various Federal agencies.

During our investigation, we heard of numerous examples that could have profitably been investigated. Mr. William E. Naumann, national treasurer of the Associated General Contractors of America, Inc., cited as one example the enormous duplication involved in complying with Equal Employment Opportunity regulations.

Contractors working for the Federal government have to submit their proof of compliance with Equal Employment Opportunities regulations to each agency for which work is done. If a contractor has five jobs for five different agencies he must submit the same record of compliance to all five different agencies. Although Equal Employment Opportunity laws have been on the books for almost a decade, OMB has yet to provide any coordination of reporting efforts. Again, a very good law has been hampered by voluminous redtape with the inevitable consequences of increased costs to businessmen and the taxpayer.

Not only is OMB ineffective in controlling the proliferation of Federal paperwork, it obstructs the ability of Federal regulatory agencies to obtain necessary information. The Business Advisory Council on Federal Reports is supposed to advise OMB on the effects of Federal reporting requirements on business in general and small business in particular.

In theory, the Council should provide a good cross section of the thinking of American business. In practice, the small businessman is rarely, if ever, represented on the Council. The affiliations of the Council members read like a gold-star listing of *Fortune* magazine's 500. Big business dominates the Council, and it is these same big business interests which are consistently asked by OMB to pass judgment on the necessity of specific Federal regulatory agency report forms. The industries regulated have substantial veto power over the ability of independent regulatory agencies to gather information on their business activities. The whole situation, in my opinion, reeks of conflict of interest.

For this reason, several of my colleagues have introduced legislation in the Senate to correct this situation. The Bentsen amendment to the Alaska Oil Pipeline bill provides a separate section 3512 in the Federal Reports Act to deal with the information needs of the seven independent regulatory agencies. OMB authority over the information-gathering activities of these agencies would be removed and placed instead with the General Accounting Office. GAO would review potential report forms to determine the availability of the desired information from other Federal sources and to minimize the reporting burden to small business.

In passing the Bentsen amendment, the Senate served notice of its disapproval of OMB's actions in regard to the information-gathering activities of regulatory agencies. It was obviously the consensus of the Senate that OMB had not lived up to its full responsibilities under the Federal Reports Act. I totally support this action of the Senate.

It seems to me, however, that we have only gone halfway toward completing the job. The Senate has moved to protect the functional capacity of regulatory agencies. OMB's inept administration of the Federal Reports Act has been acknowledged by Congressional action. It is now our duty as members of Congress to extend equal consideration to the small business community in this country. Passage of S. 1812 is the next logical step given action already taken.

The criticisms of this proposed legislative action have been twofold. First, it has been suggested repeatedly that the General Accounting Office does not want responsibility for the administration of the Federal Reports Act. I would point out that GAO did not welcome its present authority under the Federal Campaign Act of 1971. The Comptroller General actively discouraged GAO participation in overseeing Congressional and Presidential elections. The Congress persisted and a compromise was reached whereby GAO would carry out oversight duties for Presidential elections. The last several months have demonstrated the wisdom of that Congressional decision. GAO has done a superior job monitoring Presidential campaign contributions and expenditures, and I am sure that this legislative agency would do an excellent job in administering the Federal Reports Act.

GAO is the logical choice for supervising and coordinating the functions of the Federal Reports Act. The agency presently audits the receipt, expenditure and application of public funds by the departments and agencies of the Federal government. These studies include examining the efficiency of operations and program management as well as determining whether agency programs are achieving the intent of Congress. The scope of GAO's work also extends to certain activities of State and local governments, quasi-governmental bodies, and private organizations in their capacity as recipients under, or administrators for, federally funded programs. These activities place GAO in an excellent position to oversee the information-gathering activities of Federal agencies.

In addition, GAO already has considerable knowledge of the Federal paperwork problem. The Budget and Accounting Act of 1921 and the Accounting and Auditing Act of 1950 authorize the Comptroller General to make periodic investigations into and reports on ways to improve records management practices in the Federal government. By extending GAO's authority to include basic oversight over the source of paperwork as well as the ability to review internal management and storage arrangements for the actual documents, a centralized approach to the control of the growing paperwork crisis may be realized. GAO's impeccable reputation for investigatory ability would be invaluable in implementing Sections 3(a) and 3(b) of the Federal Reports Act.

Most importantly, GAO is a part of the legislative branch of government and as such it would provide Congress a more adequate means of overseeing the statistical and reporting system of the Federal government.

The second criticism of S. 1812 directly relates to GAO's status as a legislative branch agency. It has been postulated that responsibility for approval of Federal agency report forms is an Executive function. I do not understand the rationale behind such thinking. Perhaps the critics do not remember that the President only acquired authority for formulating the national budget in 1921. Prior to the Budget and Accounting Act of that year, Congress maintained sole control over the formulation of the budget.

Authority for administration of the 1942 Federal Reports Act was placed by the Congress in the Bureau of the Budget so that review of funds for statistical purposes could be more easily facilitated. There was nothing sacrosanct about that decision. Congress certainly has every right to remove that authority. Critics would do well to remember the words of Thomas Jefferson when he said: "Whatever of the enumerated objects (in the Constitution) is proper for a law, Congress may make the law."

Mr. Jefferson also noted that "the people and I look for our safety to the broad representation of the people (in Congress)." Those words are just as true today as they were 180 years ago. Congress has the duty to protect the rights of the people against the encroachment of the Federal establishment. S. 1812 is, I feel strongly, essential toward ensuring the continued viability of the small business community in this country by curbing the natural tendency of the Federal government toward increasing domination of the private sector by unnecessary reporting and paperwork demands.

For your record, Mr. Chairman, I submit two documents which were prepared at my direction by the American Law Division, Congressional Research Service, of the Library of Congress. The first, entitled "Congressional Alternatives Available to Remedy Office of Management and Budget Failure to Comply with Section 3 of the Federal Reports Act of 1942," concludes that the most viable way to control Federal redtape and paperwork is to transfer the authority of the Federal Reports Act from OMB to GAO or a new agency within the legislative branch. I am sure the memorandum with its many legal citations is self-explanatory.

The second such memorandum also prepared by the Library of Congress entitled "Constitutionality of Transfer of Authority and Functions Under the Federal Reports Act of 1942 from Office of Management and Budget to General Accounting Office," makes a most persuasive case for that which we seek to accomplish by S. 1812.

Mr. Chairman, I deeply appreciate the opportunity to appear here this morning in support of S. 200 and S. 1812. I know that I am not speaking out of school when I say that the small businessmen throughout the United States appreciate the dedication and concern of the Government Operations Committee in seeking to reduce and control the voracious forms and paper appetite of the Federal bureaucracy.

AMERICAN SAMOA AND FRENCH NUCLEAR TESTING

Mr. HARTKE. Mr. President, while the U.S. Government has remained silent on France's continued nuclear atmospheric testing in the Pacific Ocean, one of our territories has taken upon itself to speak out.

The American Samoa Legislature passed a resolution condemning continued atmospheric testing in the South Pacific. I find contained within that resolution a very candid, honest, and humanitarian appraisal of continued detonation of atmospheric nuclear devices:

Whereas, no scientific or political rhetoric can disguise the brutal fact that bomb explosions conducted while there is still any possibility of harm are a complete betrayal

of the obligations and responsibilities that civilised nations have for one another. . . .

Mr. President, on August 2, 1973, I introduced Senate Resolution 155, cosponsored by Senators McGOVERN, BAYH, INOUYE, and TUNNEY; calling upon the President to condemn the continued detonation of nuclear devices by France in the Pacific Ocean. The world will little note nor long remember what we say here; but it can never forget what we do here to protect man's integrity, respect for others, and courage to condemn those who irresponsibly endanger the welfare of mankind.

I ask unanimous consent that the resolution adopted by the Legislature of American Samoa be printed in the RECORD.

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

AMERICAN SAMOA: PETITION RELATING TO PACIFIC AREA ATOMIC TESTS

Whereas, the birth of the atomic age also heralded an era of changing and more sensitive relationships among the family of nations: and

Whereas, although originally seen as a major scientific breakthrough with limitless advantages for the well being and progress of mankind, the release of nuclear energy has proved to be a two edged sword and a curse as well as a blessing: and

Whereas, it is now a scientifically acknowledged fact, disputed by none, that the cumulative effect of exposure to radiation can and does result in a horrible and fatal disease for the living and agonizing disfigurement for innocent children as yet unborn: and

Whereas, considering the dangers involved, all that can be reasonably expected to be learned from the explosions of nuclear bombs has already been learned: and

Whereas, no scientific or political rhetoric can disguise the brutal fact that bomb explosions conducted while there is still any possibility of harm are a complete betrayal of the obligations and responsibilities that civilized nations have for one another: and

Whereas, any action taken in the light of this simple fact becomes even more appalling when the explosions are to be conducted in an area far removed from the authors of the holocaust and close to innocent people who have no wish to participate either as perpetrators or as victims: Now, therefore

Be it resolved by the medical services and public safety committes of the senate and the medical services and public health and legal affairs and public safety committees of the House of Representatives of the legislature of American Samoa that we join with Australia, New Zealand and other areas of the South Pacific in voicing our indignation and protest against further testing of atomic bombs by any nation in the South Pacific area and indeed in any area where to do so would jeopardize the health and welfare of innocent people: and

Be it further resolved that copies of this petition and resolution be forwarded to the proper authorities of France, the Secretary of State of the United States, the Secretary of the Interior, the Assistant Deputy Secretary of the Interior, and the Governor of American Samoa.

LAURENS COUNTY, S.C., A DISASTER AREA

Mr. THURMOND. Mr. President, on September 20, 1973, the South Carolina General Assembly passed a concurrent resolution memorializing the President of the United States to declare a portion of Laurens County which was severely damaged by the recent flood to be a disaster area.

On behalf of the junior Senator from South Carolina (Mr. HOLLINGS) and myself, I ask unanimous consent that this resolution be printed in the RECORD.

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

A CONCURRENT RESOLUTION

Memorializing the President of the United States to Declare a Portion of Laurens County Which Was Severely Damaged by the Recent Flood To Be a Disaster Area.

Whereas, a portion of Laurens County near the City of Laurens was recently severely damaged when the Little River overflowed its banks and destroyed numerous homes, buildings and other property; and

Whereas, persons of this area victimized by this violent act of nature are in need of special assistance to enable them to reorder their lives and property; and

Whereas, the damage to this small area, still untotaled, will exceed millions of dollars. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring:

That the President of the United States be, and hereby is, memorialized to immediately declare that portion of Laurens County which was severely damaged by the recent flood to be a disaster area and make such area eligible for whatever assistance of an emergency and longtime nature is available.

Be it further resolved that copies of this resolution be forwarded to the President of the United States and all members of the South Carolina Congressional Delegation in Washington.

ACTION ON FUEL COSTS

Mr. EAGLETON. Mr. President, this morning's Washington Post quotes White House counselor Melvin Laird as saying the administration "may not be able to wait for action by the Congress" before moving ahead with mandatory allocation of fuels. According to Laird:

It probably will be necessary for the executive branch to do it on its own.

Mr. President, this effort to shift blame for the administration's do-nothing policy on the fuel shortage is a gross distortion of the record. The fact is that 5 months ago, Congress passed my amendment to the Economic Stabilization Act giving the President all the authority he needs to allocate petroleum products on either a voluntary or mandatory basis. The fact is that after opposing passage of that amendment, the administration has refused to use the authority it grants despite repeated urging by Members of Congress.

As a result of the administration's failure to act, the Congress is now considering a second, stronger bill to require mandatory allocation of fuels. But there should be no confusion about the facts of the situation—authority to impose mandatory allocation of fuel is on the books, but the administration has not used it.

Today we face the prospect of severe shortages of heating fuel and propane on top of the gasoline shortages we have had all summer.

If the winter is a cold one—and the odds are against a repeat of last year's mild weather—hundreds of thousands of American homes will go without heat and factories across the country could be forced to shut down.

Unless something is done about continuing gasoline problems, thousands of independently owned service stations will have to close their doors.

We have known for a long time that these problems were coming, but for 5 months, the administration sat on its hands; for 5 months it has refused to use the authority Congress gave it. I think it is time the administration stopped looking for scapegoats and began looking for answers to our energy problems.

THE "TODAY" SHOW INTERVIEW OF SENATOR ROBERT C. BYRD

Mr. ROBERT C. BYRD. Mr. President, on September 5, I was a guest of the "Today" show, a production of the NBC network. The interviewers were Bill Monroe, Today's Washington editor, and Robert McCormick, an NBC newsman who has covered Congress for over a quarter century.

I ask unanimous consent that the transcript of the interview be printed in the RECORD.

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

AN INTERVIEW WITH SENATOR ROBERT C. BYRD

BARBARA WALTERS. The Ninety-third Congress, back from the August recess, returns to lawmaking in the United States Capitol at noon today. The senators and representatives have a full agenda of controversial issues waiting for them, including the President's power to make war and to impound funds, minimum wages, reform of campaign spending and a great many other issues.

We want to discuss the congressional prospects today with a Democratic leader in the full expectation of doing the same with a Republican leader very shortly.

On hand today in our Washington studio is Senator Robert Byrd of West Virginia, and he's the Democratic Whip. And with him are "Today" Washington editor Bill Monroe, who is just back from vacation himself, and NBC News congressional correspondent, Robert McCormick.

Good morning, gentlemen.

BILL MONROE. Good morning, Barbara.

Senator Byrd, do you agree with Senator Dole that the people of the country are sick and tired of the Watergate hearings, and will you go along with his resolution to put an end to television coverage of the hearings?

Senator ROBERT BYRD. As I understand his resolution, he would end the hearings; I would be opposed to concluding the hearings. I don't feel that the people of the United States want the hearings ended until the work is done. I do believe that the people are getting tired of the television hearings. I think that television has performed a great service for the country in informing the people as to what Watergate is all about. But at the same time, I do believe that the hearings are somewhat over the hill from the standpoint of television. I would assume, and I would hope, that when Phase I of the investigation is completed that the remainder of the hearings would be open to the public and, of course, covered by the press, but not televised.

MONROE. What about the ratings indicating that when the hearings are shown on a single network they are outdrawing the daytime soap operas?

Senator BYRD. I think that the hearings have been very good for public television,

for educational television. And I think that there's a tremendous amount of interest in the country in the hearings. But having said that, I do believe that if the televised hearings should continue beyond Phase I, a backlash for the committee could be created. I think that sympathy for those people who are responsible for Watergate could be generated. I feel that the televised aspect would have served its very useful purpose by that time.

MONROE. Senator—Senator, what about President Nixon's feeling that the Congress in its preoccupation with Watergate has been neglecting other business?

Senator BYRD. This, of course, is a false issue and is obviously an attempt to divert public attention away from his own difficulties, which the President himself has contributed to in considerable measure. Truman said that if you can't stand the heat, get out of the kitchen. President Nixon appears to be saying that if you can't stand the heat, shift the blame to someone else. The record will show that Congress has a very good record throughout this first session. I think we have to keep in mind that this is the first session of the Ninety-third Congress. And the Senate has passed a very impressive array of important legislation.

Now it's easy to get the impression in watching the televised hearings that Congress is all tied up in Watergate. But we must recall that only seven members out of five hundred and thirty-five members of Congress are involved in the Watergate hearings. And while those seven members have rightly given a great deal of their time to carrying out their responsibilities under the Senate resolution, the remaining five hundred and twenty-eight members have been busy in their committees and in their subcommittees, of which there are a total—in both houses, counting standing committees, full committees, subcommittees, special committees and select committees and subcommittees—a total of over two hundred and fifty of these committees and subcommittees. And they've all been busy. Members have been busy in the committees, and the action on the floor has been heavy. The roll calls have been many. And as I say, I think the Senate, especially, has passed a tremendous volume of important legislation already in this session.

ROBERT MCCORMICK. Senator, most of your colleagues who've come back seem to think that inflation is the number one problem and not Watergate. Can Congress do anything about high prices?

Senator BYRD. This is correct. Inflation is the issue that's uppermost in the minds of the people. This is reflected in my own mail. Congress has given to the President the tools with which to combat inflation. These are tools which he said that he didn't want at one time, which he wouldn't use. But after the Congress passed legislation providing these tools, the President finally acted in August of 1971 when he first applied the ninety-day freeze. He then went to Phase II, which worked very well throughout all of 1972 and which was prematurely lifted in January of this year. So, the President has the tools with which to adequately deal with inflation all along the line. The administration's problem has been that it has oscillated, first to laissez faire and then back to controls, and then back to laissez faire and then back to controls. So it has gone back and forth, and the indecision has created consternation and lack of confidence among business people and money markets not only in this country, but throughout the world.

So, Congress has given the President the tools. Congress itself can exercise restraint upon spending. I think it is trying to do that. It has, of course, set a ceiling below the President's own ceiling. The Congress ought to try to live within that ceiling and establish priorities so that it will do so. And I think that it will. Some of the appropriation bills that have passed the Senate have been below the budget estimate. It must be kept in mind that during the first four years of the Nixon administration, the Congress cut the President's budget by a total of twenty billion dollars during those four years. The Congress has a good record with respect—a reasonably good record I think with respect to restraining itself. It can continue to do this, and this will be a factor in helping to control inflation.

MCCORMICK. But Congress can't do anything directly to reduce prices or to control—keep them where they are?

Senator BYRD. The President has the authority to do this. The President is the man who . . .

MCCORMICK. He has to do it.

Senator BYRD. . . . executes the laws, and the Congress has provided him the authority through the Economic Stabilization Act to deal with wages and prices, et cetera.

MCCORMICK. Could I ask you just one more question just very quickly, Bill?

Do you anticipate this session as just one long fight with the White House, as many reporters seem to think?

Senator BYRD. I would hope not. I think there will be future confrontations, as we might expect, under any administration, especially when there's divided government, the Congress under one party and the White House under another. I think, though, that the need today is for both the Congress and the executive branch to attempt to bring and end of the civil war. And in my judgment, the President can do more in this regard than anyone else.

I feel that there has been entirely too much isolation on the part of not only the President, but the White House in general. And this is not to say that there are not a lot of good people down at the White House who work effectively with the Congress. Tom Korologas is excellent. I wish we had more men like him dealing with the Senate. I think the President made a wise choice in selecting Mr. Laird and Mr. Harlow. These are people who know the outer limits of political warfare. They're well liked and respected on the Hill. And I believe that it will be their goal to bring about this reconciliation and accommodation that's so needed in the best interests of the people and the country.

MONROE. Senator, there are two bills pending that are right in the middle of what seems to be a general conflict between the Congress and the White House, one restricting the President's war-making powers and another prohibiting him from impounding funds appropriated by the Congress.

Don't you expect that after these bills are passed, the White House will veto—the President will veto both of them; the Congress will not be able to override the vetoes? And in that case, what will have been accomplished?

Senator BYRD. Well, I have to say this, that the odds are usually with the President when it comes to overriding a veto. It requires two-thirds of both houses, and, of course, this means that one hundred and forty-six members of the House of Representatives can sustain a veto. And the President has a hundred and ninety-two Republicans in the House and a good many Democrats who are often sympathetic with his position. So the odds are with him.

Now, as to the war powers measure and the impounding measure, it has been anticipated that the President would veto these. I don't know. I wouldn't want to second-guess the President. I wouldn't be surprised if he did. But in the event that he does, I think that much good will have been done in that the people will have spoken through their representatives, and I think that even though he were to veto these bills and the vetoes were sustained, they would be sustained by a minority of the representatives in the House and by the Senate. And I'm not sure that the Senate would sustain either of the vetoes. The chances might be fairly good that the Senate would override. I would not attempt to prognosticate in that regard.

But I do believe that it would indicate that the great majority of both houses would still favor legislation which would delineate the President's war-making powers in an undeclared war and also the President's powers to impound funds that have been appropriated by the Congress.

MONROE. Isn't the minimum wage bill which the Congress has passed also likely to be successfully vetoed by the President?

Senator BYRD. I understand that he may veto that bill. And if he does, I would say the chances of overriding the veto in the House would be poor. In the Senate, I think it would be nip and tuck. But I believe it was a House bill, and, if so, it goes to the House. If the House fails to override, of course the Senate will never get a chance.

MCCORMICK. Do you think Congress is really—is regaining any of what it considers its rightful share of authority in our three-way government? Or if it hasn't, will it?

Senator BYRD. I think that the Congress has reasserted its position very emphatically. It hasn't lost any of its powers. Its powers are inherent in the Constitution, and these have not been lost. But they have been temporarily suspended or surrendered. The President has been very alert in this regard. We've been talking about the war powers measure and the impoundment measure, and measures dealing with executive privilege. The Congress has set a ceiling below that of the President. The Congress has passed legislation requiring the confirmation of the Director of the OMB and also legislation requiring the reconfirmation of cabinet officers. And so the Congress is acting all along the line. It has done a superb job I think with respect to the oversight function, which is a very important responsibility under the Constitution. We have only to look at the hearings with respect to L. Patrick Gray and the hearings with respect to the Special Prosecutor and the fact that the Congress through the Judiciary Committee of the Senate laid down very strict and clear guidelines by which that Special Prosecutor would be guided in the investigation of the Watergate case to see that Congress has really lived up to its responsibilities under the Constitution, especially with respect to the oversight function.

MONROE. Senator, thank you very much for being with us this morning. Senator Robert Byrd, Democrat of West Virginia, the Democratic Whip in the Senate. Thank you, Bob McCormick. Now back to Barbara.

FORTHCOMING VISIT OF THE PRIME MINISTER OF NEW ZEALAND

Mr. HARTKE. Mr. President, the Prime Minister of New Zealand, the Right Honorable Norman E. Kirk, is due to arrive in the Nation's Capital this coming Wednesday, September 26, 1973. Prior to the Prime Minister's arrival in Washington, he is to address the General Assembly of the United Nations.

The United States and New Zealand have long enjoyed common philosophies and principles. Our mutual accord under the ANZUS Pact has gained the respect and admiration of knowledgeable observers.

Prime Minister Kirk last visited the United States in 1971 while a member of Parliament. He became Prime Minister in 1972 when the Labour Party won control of the Parliament.

Prime Minister Kirk was born at Wai-

mate—Canterbury—in January 1923 and was educated in Christchurch.

Before he entered Parliament, Mr. Kirk held a variety of positions, including that of apprentice welder with the Railway Department. While with the Department he obtained his Boiler and Firemen's Certificate by correspondence.

He joined the Labour Party at the age of 20 and his first office was that of president of the Bay of Plenty branch. He entered national politics in the 1957 elections, and won the marginal parliamentary seat of Lyttelton. He increased his majority in the 1960 and 1963 elections in spite of a general swing away from the Labour movement.

In 1959, Mr. Kirk was first elected to the National Executive of the Labour Party as division area representative for Canterbury.

He held this post until he was elected vice president of the party in 1963. In 1964, Mr. Kirk was elected president and held this position for 3 years.

In December of 1965, after only 7 years as a member of Parliament and without having held an administrative portfolio in government, Mr. Kirk was elected leader of the opposition. In the 1969 election, Mr. Kirk won the Sydenham seat which in 1972 returned him to Parliament with a very substantial majority.

Mr. President, the foreign policy of New Zealand has undergone some significant changes since Prime Minister Kirk took office. I mention here that it appears to be an independent road built on morality and the good of New Zealand. That is a laudable policy, yet hopefully it will also be for the good of all mankind.

I ask unanimous consent that a pamphlet entitled: "New Zealand: A New Foreign Policy" by the Right Honorable Norman E. Kirk, be printed in the RECORD at the conclusion of my remarks.

Mr. President, I also ask unanimous consent that a paper depicting the trade and economic relations between new Zealand and the United States be printed in the RECORD following my remarks. I include that paper for the purpose of indicating to my colleagues some very interesting highlights on the posture of the U.S. export policy.

We have long thought we enjoyed the luxury of being the greatest producer of agriculture products. Yet, it is evident that, while we exported to New Zealand many manufactured goods, our imports from New Zealand exceeded our exports because of the vast quantities of food and fibre brought into the United States to balance our needs with our supply.

Let us review our efforts to produce food and fiber on the vast loam plains and farms within the United States. Any government that encourages the production of agricultural products to feed and clothe mankind will be recognized with a humanitarian interest. It gives me pleasure to welcome the Prime Minister of New Zealand to the Nation's Capital.

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

NEW ZEALAND: A NEW FOREIGN POLICY

(By Right Honorable Norman Kirk)

INTRODUCTION

The changes of leadership that take place in a democratic system of government have a salutary effect on the direction of policy making. New ideas are brought forward. Old policies are reviewed. What is good is refreshed, and what is no longer relevant or useful is discarded. Nowhere is this process more needed or productive than in foreign affairs.

Since assuming office the Government has carried out a complete and systematic review of foreign policy. Important issues, such as the withdrawal of New Zealand servicemen from Vietnam and the recognition of the People's Government of China, have been dealt with promptly but in general we have proceeded in an orderly fashion from the formulation of general principles to their application in specific cases. We have sought to develop a greater degree of forward planning than has been evident in the past: our new aid programme is a notable example.

The Government which I lead is determined to find and hold to a firm moral basis for its foreign policy. It may be said that the only basis for a sound foreign policy is the national interest. I see no contradiction. I believe that to base our foreign policies on moral principles *is* the most enlightened form of self-interest. What is morally right is likely to be politically right. What appears in the short term to be the path of expediency is all too likely to lead into a blind alley.

The Government has already had to take one decision on an issue involving both foreign and domestic policy where the dictates of morality and expediency appeared to conflict. It would have been expedient to have allowed the Springbok rugby tour to proceed. It would—so it seemed—have been the popular decision with many rugby-loving New Zealanders. When the Government had access to all the relevant information and advice, however, it was quickly evident that it would not be in the larger interests of New Zealand for the tour to take place with a South African team selected on a discriminatory basis. Strenuous efforts were made by the Government to persuade those concerned to take account of these larger interests. Only after the most exhaustive consultations with all parties, when it became clear that the Rugby Union was not prepared to take any action in regard to the invitation it had already issued unless it was required to do so by the Government—only then, and with reluctance, did the Government inform the Rugby Union that the tour must be postponed until a South African team was selected on the basis of merit alone.

Within New Zealand, there was a wide measure of acceptance that this very real sacrifice was one that had to be made. Abroad, it was generally welcomed. The Government's conviction that a policy based on moral principle was also in the national interest and would command national support, was thus reinforced at the very beginning of its term of office.

The decision on the rugby tour underlies the Government's determination that all aspects of its policy should reflect its support for the principles of the Universal Declaration of Human Rights, of which this year marks the twenty-fifth anniversary. New Zealand will take every opportunity to reject doctrines of racial superiority and discrimination, wherever they may be preached or practiced.

The Government has approached a second major policy issue with a similar concern for the moral issues it raises. This is the question of nuclear weapons testing, which affects New Zealand most directly when the tests are conducted in the South Pacific. In the past many people have assumed that New Zealand's opposition to nuclear testing by France in the South Pacific is based solely on the immediate danger to our own citizens. This really misses the point. In its application to the International Court of Justice instituting proceedings against France, New Zealand made it clear that our approach rests on a much broader basis of international concern. It proceeds in part from a widely shared belief that world peace and security depend on whether nuclear weapons can be limited and, eventually, eliminated, and that the continued development and proliferation of these weapons increase tension and the risk of nuclear war. In part also, it proceeds from a concern that the irreversible pollution created by nuclear fall-out presents a risk to the health of mankind, and particularly of future generations. The full extent of the risk may not be known: but obviously it cannot be justified where there is no benefit to those who are subjected to it against their will.

For these reasons, New Zealand opposes all nuclear weapons testing in all environments. Because fall-out is widely disseminated, we are especially opposed to the conduct of tests in the atmosphere. During our first ministerial contact with the Government of China, one of the two nations at present conducting tests in the atmosphere, the opportunity was taken to make our opposition to nuclear testing known.

Because New Zealand is one of the countries nearest to France's nuclear testing zone at Mururoa, and because there are Pacific islands closely associated with New Zealand even closer to the test area, New Zealand has felt obliged to take a leading part in efforts to persuade France to abandon its test programme. This is not the course of expediency. New Zealand has a close traditional friendship with France, which it values highly. It has vital trade links with the European Economic Community, of which France is an influential member. Its relations with France in every respect except this are excellent. A policy limited to token protest might, therefore, be regarded as the expedient course, and in the national interest. In the Government's view, such an approach would be tragically short-sighted. We see only one possible course in the national interest, and that is the same course that is required by the interest of mankind: to bend every effort to bring nuclear weapons testing to an end. At the same time, we shall devote equal attention to maintaining our good relations with France in every other field, for it will only hinder us in seeking to persuade France to change course if we allow bad relations to develop.

In deciding like Australia to take our dispute with France to the International Court of Justice, New Zealand was motivated not merely by a concern to dispose of a troublesome issue but by an earnest wish to promote and strengthen the rule of law in international affairs. It is a fundamental principle of our foreign policy that the use of force to settle disputes between states is unacceptable. Unlimited nuclear war among the great powers may be ruled out, however precariously, by the so-called balance of terror. But if small states are to have any sense of security from the use of force against them by more powerful states, it is essential that recourse to law, or some comparable form of impartial arbitration, should become the accepted method of peacefully settling international differences. The history of the twentieth century so far has been one of attempts to establish effective and accepted methods of peaceful settlement and of their recurrent failure. The international community has

become adept at creating machinery designed to regulate its own behaviour, but national governments remain singularly reluctant to accept in practice the limitations on their sovereignty which are essential to permit it to operate as intended. The two world wars resulted in giant steps forward in the development of international machinery, both political and legal. But in the years that followed these forward steps—the establishment of the League of Nations, the United Nations, and the International Court of Justice—the nations of the world have quietly shuffled backward.

The constitution of the United Nations was severely handicapped by the great power unanimity rule, as my distinguished predecessor, Peter Fraser, was quick to emphasize. But it was the abuse of the unanimity rule, rather than the rule itself, which crippled the United Nations as a collective security organisation and which turned its members away from a belief in the efficacy of international machinery for peaceful settlement and has led all too often to resort to force.

The impetus generated by the Second World War in the development of world organisation is now expended. The concept of world organisation that emerged from that conflict was essentially a great power concept: the principal members of the alliance that won the war would also keep the peace. That hope has proved to be forlorn. Not only did the permanent members of the Security Council fail to keep the peace, but every one of them at one time or another has itself engaged in open hostilities.

The Vietnam conflict caused a revolution in public attitudes to this kind of war, in which the civil population is inevitably the chief sufferer. It marked the end of an era. By its close, it had become plain that military intervention by great powers in the affairs and on the territory of smaller nations is no longer acceptable to world opinion. We hope that the Soviet Union and China as well as the United States have learned this lesson, as France and Britain did in 1956. My Government believes that United States intervention in South Vietnam—however honestly motivated—was a mistake, and regrets that New Zealand participated in it. It ended that participation as soon as it was in a position to do so.

It is sufficient commentary on the decay in western belief in the rule of law in international affairs, and of the efficacy of the existing collective security machinery, that at no time was the Vietnam conflict submitted either to the clearly applicable jurisdiction of the Security Council, or even to the verdict of public opinion in the General Assembly. Perhaps there was doubt as to what that verdict might be.

At least in the field of international peace and security, the United Nations has reached a low point. My Government is not prepared to leave things that way. We do not suffer from any illusions about the extent of our own power and influence. But we believe that the role of the smaller nations in world affairs is in the ascendant. The time has come for their voice to be heard in international forums.

New Zealand for its part intends to follow a more independent foreign policy. It has emerged from the phase in its national development where it allowed its policies to be determined by the views and interests of its most influential ally: at one time Britain, more recently the United States. From now on, when we have to deal with a new situation, we shall not say, what do the British think about it, or what would the Americans want us to do? Our staring point will be, what do we think about it? What course of action best accords with the fundamental principles of our foreign policy?

New Zealand's foreign policy under this Government will be sensitive and responsive to the needs and aspirations of other peoples, and especially those in the developing countries of the Pacific, Asia, and Africa. Eschewing an excessive loudness or stridency ill-suited to New Zealand's size and national character, it will nevertheless when the need arises be a frank and indeed an outspoken policy. We shall speak out in the United Nations. We believe that resolutions of the United Nations Assembly deserve deep respect and careful consideration, even when we disagree and vote against them. We can hardly expect the resolutions that we ask the United Nations to adopt to be observed if we ignore those which other countries seek and which ask us to change or review our policies. We cannot undertake automatically to give effect to every United Nations resolution, but it will be our predisposition to do so whenever the fundamental principles of our policy will allow. We believe that the future of the United Nations lies with the smaller nations, poor and weak though many of them are. If the world organization is to undergo a renascence, it will begin with their determination to achieve it, and the recognition of the great and wealthy nations of their right to do so. New Zealand, a small but not poor nation, will play its part.

The entry into office in this country of a new Government determined to follow a more self-reliant foreign policy, has coincided with developments in great power relationships and in world affairs generally which offer particularly favourable opportunities to develop such a policy. For a quarter of a century we have lived in a world of bipolar confrontation: the Cold War. Although it is not yet clear what is to be the new pattern of relationships among the great powers, it is apparent that it will no longer be dominated by the super-power rivalry between the United States and the Soviet Union. The two giants of the communist world, Russia and China, are at serious odds. The United States, on the other hand, is making a serious effort to improve its relations with both these countries, which in turn have shown what appears to be a genuine desire to reciprocate. Britain has thrown in its lot with Europe, which must now review and redefine its relationships with both the Soviet Union and the United States. Japan, the next most important power in the world at least in economic terms—must similarly review and redefine its relationships with the other great powers. India, for long beset by quarrels with her neighbours, has greatly strengthened her position under the vigorous leadership of Mrs. Gandhi, and has the opportunity to play the independent role in world affairs envisaged by her founding statesmen.

In such a changing world New Zealand, too, must review and redefine its relationships. This does not mean any radical reorientation on our part. New Zealanders are a democratic, freedom-loving people, and our future will remain in a close association with other peoples who share our traditions and ideals. In that sense New England will remain an "aligned" nation. But with the rebalancing of great power relationships that I have described, and with the ending of American military involvement in Asia, tensions have been lowered and the danger of war breaking out in areas of direct concern to New Zealand has receded. The need has greatly lessened for New Zealand to consider its relationships with other countries, and particularly those of Asia and the Pacific, primarily in terms of security. Some of the organisations to which we belong such as SEATO, have become largely obsolete and irrelevant to our present needs, even though our relations with individual members remain as close and cordial as ever. We are phasing down our participation in SEATO's activities to a very much lower level, particularly on the military side, but are continuing our membership because this is clearly what its Asian members want, and because other Southeast Asian Countries regard the organisation as a stabilising influence in the area. Other commitments such as the Five-Power Defence Arrangements with Malaysia and Singapore, have been successfully adapted to changing circumstances.

New Zealand would like to see new regional arrangements that will unite the peoples of Asia and replace those that have had a divisive effect in the past. But as a nation on the periphery of Asia, we recognise that any such arrangements will not come about as a result of some external initiative, but as an expression of the collective will and needs of the people of Asia themselves. The central issue is the future relationship of China with her neighbours. Fear and suspicion will not disappear overnight; nor will the problem of Sino-Soviet rivalry for the position of dominant power in the continent.

Our consultations with South-east Asian countries have shown that they are not yet ready to consider a wider arrangement of this kind. For the time being, therefore, we are concentrating on strengthening our relations with individual countries in the area, in a way which we hope will strengthen their confidence in the values of regional co-operation. We have met a ready response to our expressed wish for closer bilateral relations and shall lose no opportunity of developing them. Already we have had a number of most useful exchanges with South-east Asian leaders, both in their own countries and in New Zealand.

It remains our long-term aim to bring about a reconciliation between countries that have been divided by the conflicts of the past generation, and especially between the countries of South-east Asia on the one hand and China on the other. China is so big and important a country, so close to South-east Asia, and so deeply involved in its affairs, that peace can hardly be achieved there without its co-operation. Its actions have a profound influence on the course of events throughout the area. To play an active and constructive part in the Asian and Pacific region, it is essential to be able to communicate directly with the Chinese Government—not only to follow the development of its policies but also to be in a position to express views on them and get them heard. This applies to New Zealand as much as to any other country in the region.

My Government, therefore, on assuming office, recognized the People's Republic of China and normalized relations between the two countries. We met a ready and friendly response from the Chinese Government, and shall shortly complete the exchange of diplomatic representation. We have been criticised for not insisting on maintaining at the same time our diplomatic relations with Taiwan. This was an unrealistic policy, as its proponents well knew. New Zealand is not the United States; and no other country had established any form of relations with Peking while continuing to recognize the Taiwanese Government. We had a choice between progress and no progress, and we took a decision which has proved to be right. We have made a promising beginning in the development of friendly and businesslike relations with China, and our trade with Taiwan has not suffered.

We took our decision to recognise China independently, but implemented it in close consultation with Australia. The election of new governments in both countries was a happy coincidence. One of my first actions as Prime Minister was to invite Mr. Whitlam to visit New Zealand. At our meeting in January we set the pattern for close and continuous consultation on all matters of common concern. There has since been a constant stream of visitors, both Ministers and officials, in either direction across the Tasman. In all these personal contacts, constructive collaboration has been the goal. The

fruits of this collaboration are already evident. It is not to be expected that Australia and New Zealand will adopt identical policies on all issues. This is also evident. Since our basic philosophies are similar, however, our approaches to specific problems will complement and reinforce each other all the more effectively for being independently conceived.

Mr. Whitlam and I thought it particularly important to have an early exchange of views with the other leaders of the independent and self-governing nations of the South Pacific. At the invitation of the host country, Western Samoa, the date of the next meeting of the South Pacific Forum was accordingly advanced from September to April. Although the meeting itself took place outside the period reviewed in this report, I may record the preparatory decisions which enabled me to take several important initiatives there. As a first step, Cabinet approved a comprehensive review of South Pacific policy. It also approved a new 3-year aid programme in which both total expenditure, and the proportion of the total devoted to the South Pacific region, would be substantially increased.

In framing its policy, the Government felt obliged to take a close look at the machinery for South Pacific co-operation. It was aware of a strong feeling among the independent island governments that the South Pacific Commission, the only organisation which embraced all the peoples and territories of the area, was by no means as effective as it should be in promoting economic, social and educational development in the area. Certainly the establishment of the South Pacific Forum has given the independent governments a meeting place for exchanging views on political, social, and economic problems of common concern. The South Pacific Bureau for Economic Co-operation has been established to advise the Forum and member governments on problems of economic development and trade. But more needs to be done. New Zealand and Australia have therefore decided to give the South Pacific Commission, hampered by lack of funds, a shot in the arm by making each a voluntary contribution of $250,000. The Commission thus has the opportunity to demonstrate that, with adequate finance, it has the capacity to make a worth-while contribution to the development of the region. In addition New Zealand would like the parliamentarians of the South Pacific countries to have a more direct and effective say in regional affairs: and we shall be discussing with our neighbors the possibility of establishing a South Pacific Council, with parliamentary participation.

During the year two South Pacific countries, Papua, New Guinea and Niue, made rapid progress towards self-government. New Zealand welcomes the prospect of their becoming full members of the South Pacific Forum at an early date. We intend to establish a diplomatic post in Port Moresby when Papua, New Guinea becomes independent.

Discussions have also been held with the Cook Islands Government about the constitutional relationship between the two countries. It has been made clear that this special relationship imposes no limitation on the right of the Cook Islands to determine its own future. New Zealand will deal with the Cook Islands Government in the same way as with other South Pacific countries and has undertaken to ensure that the Cook Islands Government has access to the information on world affairs that it needs to promote its own international interests. It is envisaged that in the course of the next 2 or 3 years responsibility for the conduct of New Zealand's relations with the Cooks will be transferred to the Ministry of Foreign Affairs.

New Zealand's first concern must be to promote co-operation with its South Pacific and Asian neighbours, but this does not mean any lessening of its efforts to develop and strengthen New Zealand's "presence" in Europe and the Americas. Even if we had no interest in political developments in more distant continents, which is by no means the case, New Zealand's world-wide and ever diversifying trade interests would preclude any such reduction. On the contrary, we intend to intensify our diplomacy, and especially our economic diplomacy, in both Europe and the Americas as strongly as our resources permit.

In 1972, New Zealand established diplomatic missions for the first time in two South American countries, Chile and Peru. We are now actively considering the extension of our representation on the American continent, and perhaps also in the Caribbean, by cross-accreditation from existing posts. It is hard to see a limit to New Zealand's trading opportunities in either North or South America, and we intend to exploit them even more intensively than in the past.

New Zealand's relations with the United States remain of prime importance to us. The ANZUS treaty has continuing validity for Australia and New Zealand, even though we hope and work for a relaxation of tension which will lessen the likelihood of our having to call for American protection under the security provisions of the treaty. Although we detect signs that the United States administration may be attaching less significance, and devoting less attention, to its relationship with New Zealand than it did during the era of "containment", this is in part at least because it is concentrating its diplomatic efforts on a more active policy in other directions—a policy which New Zealand welcomes and which is in our interests. We do not intend on our side to lessen our efforts to maintain close and friendly relations with the United States: at the same time, we have not hesitated and shall not hesitate to express disagreement with American policies, as with those of any other government, when in our view New Zealand's interests, on the common interest, so require.

We also intend to maintain strong links with Canada. Under their present leadership, I believe that Australia, Canada, and New Zealand have a closer identity of approach than ever before in the philosophy of their foreign relations. Within the Commonwealth, they have an important role to play in bridging the gap which at one time seemed likely to develop between the older and the newer developing members. I look forward greatly, in 1973, to meeting Mr. Trudeau and to participating under his chairmanship in the Ottawa meeting of Commonwealth Heads of Government.

In Europe, the absence of New Zealand representation in Moscow has been one of the most glaring gaps. The Soviet Union, one of the two military super-powers, has apparently accepted the need for *detente* in her relationships with the United States and western Europe: she is a nation predominantly European but with important Asian and Pacific interests—not the least a fishing industry which operates close to New Zealand's coasts—a nation which has made known, through the visit of a senior Minister, its desire to establish friendly and businesslike relations with South Pacific countries, including New Zealand. It is manifestly in our interests, both political and economic, that our response should be prompt and positive. The status of the Soviet diplomatic mission in New Zealand has accordingly been raised to that of Embassy, and a New Zealand Embassy will be fully operational in Moscow in 1973.

New Zealand's representation in Eastern Europe will be further strengthened by the appointment of a resident Ambassador to Austria. Our Embassy, although small, will be strongly staffed on the trade side, and will provide a base for developing our economic relations with a number of Eastern European countries in a more effective way than has been possible from London in the past.

New Zealand's diplomatic presence in Europe will be extended by the device of multiple accreditation. Although we are at present represented in all the member countries of the European Economic Community except Denmark, we have no direct representation in Scandinavia, the Iberian Peninsula, the Balkan countries (except Greece), or in the Vatican. We expect to remedy these deficiencies by accrediting Ambassadors in existing posts to one or more of the countries concerned, and by instructing them to give special attention to the promotion of trade.

With the development of our diplomatic and trade representation in Europe, we are examining whether it is possible to achieve a significant reduction in the size and cost of our High Commission in London. Reduction will mean no diminution in the closeness of our relationship with Britain. This is based on ties of kinship and shared tradition which are unlikely to weaken. Our trade with Britain and her Community partners is very large and is vital to us.

New Zealand does not have any constitutional problems in her relations with Britain. New Zealand's loyalty to the Crown remains strong. We look forward to the presence in New Zealand of the Royal Family during the Commonwealth Games next year. We plan no hurried changes in the application of the honours system in New Zealand. In accordance with tradition, I have accepted membership of the Privy Council. I expect that in due course the Government will consider possible changes in the honours system, in our National Anthem, and flag, which would give them a more distinctively New Zealand character, but these are not matters of urgency.

If there are problems in our relations with Britain, these are of a more practical character. The special arrangement for New Zealand butter and cheese concluded with the European Economic Community at the time of Britain's entry had unsatisfactory features, notably in regard to prices. The position has been made worse by the floating, and effective devaluation, of Britain's currency. We have been disappointed by Britain's failure so far to accept the justice of our argument that prices under the arrangement should be adjusted in order to maintain the real return to the New Zealand farmer and the New Zealand economy. On this and many other aspects of our future trade relations with Britain and the European Economic Community, strenuous negotiations lie ahead. We must ensure that the special dairy arrangement continues on a satisfactory basis beyond 1977. We must safeguard our trade in lamb. We must co-operate closely with the Community to find ways of giving effect to their undertaking not to frustrate the diversification of our economy and markets. In all these negotiations we shall certainly not neglect the asset of our traditional relationship with Britain.

Until recently, freedom of personal movement between New Zealand and the United Kingdom was taken for granted. For Britons wishing to emigrate to New Zealand, it still exists. Under current immigration rules, adopted to cope with a situation in which New Zealand had no part, New Zealanders no longer have unrestrained right to enter Britain in order to work or settle unless a parent or grandparent was British-born. These rules thus discriminate among New Zealanders, and although the discrimination is not overtly racial, the effect is to deny Maoris, as well as pakeha New Zealanders of long-settled families, the privileges of unrestricted entry. This situation, which contrasts with the unrestricted reciprocal freedom of entry recently agreed upon by the new governments in this country and Aus-

tralia, cannot give my Government any satisfaction. We propose, at an appropriate time, to raise the matter again with the British Government.

Our wish to maintain and extend freedom of movement between New Zealand and other countries will find expression in other ways. Our immigration policy is being reviewed, and it is our objective to conclude reciprocal immigration agreements with countries which wish to do so, including Asian countries.

Although not exceptionally endowed with natural resources, apart from its climate, New Zealand has achieved a standard of prosperity for its people which marks it in comparative terms as a developed rather than a developing country. Our decision to seek membership of the Organisation for Economic Co-operation and Development, and the Organisation's willingness to receive us, constitute a recognition of this fact. We recognise also that membership of this group confers a special responsibility on us in regard to the large group of countries which are at an earlier stage of development, and in many of which ordinary people go short of some of the basic necessities of life. Indeed, it is one of the least comfortable facts of today's world that in spite of all the aid programmes so far undertaken, the overall burden of poverty is increasing rather than declining. This must surely affront our consciences.

For some years New Zealand has paid lip service to the internationally accepted targets for aid. In absolute terms, our aid expenditure has steadily increased. Proportionally to gross national product, however, it lags well behind and the rate of percentage increase has been minute. This situation the present Government is determined to correct. Recognising all the difficulties, including pressure on resources and competing priorities, the Government has nevertheless drawn up and approved an official aid programme whose objective is the achievement of the target over a period of 3 years. This means that, as an immediate consequence, Government aid will rise from $19.4 million in 1972–73 to $27 million in 1973–74, and that it will need to rise to an estimated $62 million by the 1975–76 financial year. The rate at which projects are developed and the availability of resources may mean that the third-year target is not attained, but it is accepted as a target that the Government will sincerely try to reach.

An equally dramatic increase in non-government aid, investment, and other resource transfers will be required if New Zealand as a whole is to achieve the overall target of 1 percent of its gross national product. The Government will do its part. I hope that the business community, the voluntary organisations, and the people of New Zealand will also respond to the challenge. We can afford to give more aid: we cannot afford not to.

The gerater part of Government aid will continue through bilateral programmes. These will concentrate mainly on the Pacific—where we shall aim at a "great leap forward" in living, social welfare, health, and education standards, job opportunities, and export earnings—and in South-east Asia. A substantial amount of assistance funds will, however, be contributed to international agencies such as the United Nations Development Programme (to whose Governing Council New Zealand was recently elected), the World Food Programme, the Asian Development Bank, the South Pacific Commission, the Commonwealth Fund for Technical Co-operation, and other Commonwealth assistance arrangements.

In giving aid we shall pay careful and constant attention to the economic, social, and political aspirations of the developing nations. It is for them to set their objectives and determine their own priorities. It is essential, therefore, that our diplomatic missions abroad should have the capacity and expertise to work closely with the recipient governments in order to ensure not only that our aid programmes are efficiently administered, but that they meet the real wants and needs of the peoples they are intended to benefit.

In preparing this introduction to the Ministry's annual report, I have gone beyond the normal recording of past events to give a broad outline of the new Government's objectives and future intentions. It may, therefore, be reproduced separately as a paper on New Zealand's foreign policy. As such, and at the risk of oversimplification, it may be useful for me to conclude by summarising what I conceive to be the basic elements of that policy.

New Zealand is determined to establish a firm moral basis for its foreign polices.

New Zealand will follow more independent policies: our starting point on every issue will be what we think is right.

New Zealand strongly supports the principles of the Declaration of Human Rights, and will equally strongly oppose all forms of racial discrimination at every opportunity.

New Zealand will work to strengthen the rule of law and the role of the smaller nations in the United Nations.

New Zealand will seek to develop more direct contacts and relations with the great powers, in order to increase our understanding of basic trends in world affairs.

There will be the closest co-operation and consultation with Australia on all foreign policy issues.

New Zealand has a special concern, and acknowledges a special responsibility, to assist and co-operate with its neighbours in the South Pacific.

New Zealand, recognising that the initiative for the development of new regional arrangements in Asia must come in the first place from Asian countries themselves, will nevertheless seek to encourage and support the concept of a regional arrangement of a unifying character involving China.

New Zealand will strengthen and extend its diplomatic network in both North and South America, and both Eastern and Western Europe.

New Zealand will continue to be closely associated with Britain and the United States, and other freedom-loving nations which share our ideals and traditions.

New Zealand will make a determined effort, in the next 3 years, to reach the goals of 0.7 percent of GNP for official aid to developing countries and 1 percent of GNP for total resource transfers.

At all times there will be frankness and openness on the Government's part in public discussion of its foreign policies, with the object of ensuring support for them from an enlightened and humane public opinion in this country.

It will take time to bring the Government's foreign policy to full fruition. Many aspects of it will require the most careful planning and delicate negotiation. The extremes of impatience and complacency must alike be voided. In our Ministry of Foreign Affairs and its missions abroad we have an instrument capable of the task. The Government will give it the resources it needs to carry out that task and to represent New Zealand modestly but effectively throughout the world. Its aim is to ensure that both its foreign policies and its foreign service are such that the people of New Zealand can be proud of them.

NEW ZEALAND/UNITED STATES TRADE AND ECONOMIC RELATIONS

One of the most significant factors in New Zealand/United States relations in recent years has been the phenomenal growth in trade between the two countries which has risen 67 percent in the past six years (see table).

EXPORTS TO NEW ZEALAND

From 1967 to 1972 United States exports to New Zealand increased by 49 percent. American exports to that country include machinery, chemicals, fertilisers, textile yarns and fabrics, and scientific instruments. Trade in these commodities has risen steadily over the period although 1972 exports to New Zealand valued at $133.7 million did not reach the record level of $134 million in 1970. Last year, American exports rose some $23 million over 1971, significant increases occurring in exports of motor vehicles (up $5.7 million) electrical and generating machinery (up $5.6 million) chemicals (up $2 million) fertilisers (up $2.2 million) tobacco (up $1 million) and scientific instruments (up $1 million).

IMPORTS FROM NEW ZEALAND

United States imports from New Zealand increased by 77 percent from 1967 to 1972. The United States has become New Zealand's second largest export market taking almost 20 percent of her exports in 1972. Imports from New Zealand reached a record $275.9 million last year, a 20 percent increase over the 1971 figure of $229.5 million. High prices for beef and wool account for part of this growth. As some 60 percent of New Zealand beef exports are shipped to the United States, New Zealand has long sought the elimination of quantitative restraints on the importation of this product. For this reason the President's action in temporarily suspending the quotas in June 1972 was welcomed by New Zealand exporters who were able to increase their shipments by 10 percent in 1972 over the previous year. With the continued suspension of the voluntary restraint programme for 1973 imports of beef, shipments have been increased by 23 percent from January to July 1973 over the corresponding period in 1972 and New Zealand's exporters are hopeful of further increasing supplies to this market

DAIRY PRODUCTS

As the world's leading exporter of dairy products, exports totalled just under $423.8 million in 1972 of which less than $23.7 million was destined for the United States. New Zealand has long been anxious to increase exports of these products to this market and has therefore been more than willing to respond to the opportunities offered by the recent emergency import quotas for cheese and non-fat dry milk and is hopeful of increasing liberalisation on imports of dairy products to this country.

MEAT

While beef constitutes almost half by value of the United States imports from New Zealand, other products are contributing their share of the trade. During 1972, imports of lamb rose some $2.7 million, sausage casings $2.3 million and casein $3.8 million over the previous year.

MANUFACTURED PRODUCTS

One of the most significant increases has been the $5 million rise in imports of New Zealand steel. Other manufactured products are also being successfully sold on this market, for example, leather goods, tableware, textile yarn and thread and machinery and appliances.

TARIFF REVISION

As a result of Britain's entry into the European Economic Community the New Zealand Customs Tariff is currently being revised to eliminate British Preferential rates of duty. This revision will improve considerably the competitive position of the United States in the New Zealand market The outlook for United States exporters tc New Zealand is therefore favourable.

NEW ZEALAND EMBASSY,
Washington, D.C.

TRANSFER OF TIME OF SENATOR ROBERT C. BYRD TO SENATOR STENNIS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the remaining time allocated to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) be retained rather than given up; that there be a conclusion of the time for the transaction of morning business; and that the remaining time under the allocation to Senator ROBERT C. BYRD be transferred to the distinguished Senator from Mississippi (Mr. STENNIS), the Chairman of the Committee on Armed Services.

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

Mr. STENNIS. Mr. President, how much time, then, remains to me?

The ACTING PRESIDENT pro tempore. The Senator from Mississippi has 14 minutes remaining.

Mr. STENNIS. I thank the Chair and the two leaders.

ENLISTMENTS IN THE ALL-VOLUNTEER ARMY

Mr. STENNIS. Mr. President, I do not have lengthy remarks, but I wish to speak briefly concerning the problem of the all-volunteer forces, the volunteers who are going to serve in the military forces.

On a recent trip I made to Hawaii and to Fort Lewis, Wash., I personally interviewed about 200 enlisted men and some 10 enlisted women from all four of the military services. My specific purpose in talking with these people was to obtain a frank appraisal on the question of how to get men to enlist for the first term and then to learn what were the determining factors in gettting them to enlist a second time.

All of the interviews were held behind closed doors with no one present except the men themselves and me, and I believe the answers I received were sincere and truthful. I talked with every person involved, generally opening the discussion by asking each one to make an observation or ask me a question and by stressing that I was not looking for shortcoming or wrongdoings. I told them that I was not an inspector general. All of the discussions were full and frank, probably in part because of my promise not to individually quote them and/or use their names.

In the Honolulu area, I interviewed 150 men and 10 women from the 50 States. At Fort Lewis, I interviewed 15 junior officers, 9 sergeants with 5 to 21 years of service, and 25 privates and corporals serving their first term. All of them except probably one or two, were volunteers.

Based upon my experiences with these people, I find the following points to have been of significance in deciding to enlist. I made notes without taking down names.

First. It is an adventure for a great number of them who are at the high school level, as they came out of high school or left high school. Most of them consider the pay now as comparable and good employment by contrast with an outside civilian job.

I think the major considerations, however, for reenlistment are as follows, in order of relevance and comparative influence:

First. By then, they are interested in living quarters. Most of them are married. Many have children. They are very interested in where their family is going to live.

Second. The person wants to keep the job he is doing.

Third. The person has a chance to get started on some other job or training program within the service.

In other words, some of them are disappointed in their own choices as to what they want to train for, and in many instances it is impossible to give them fully what they were promised. The popular training programs cannot be provided all of them.

Both of the above considerations have an eye to the value of training or experience in getting a job later in civilian life. If he decides not to continue in the military, he wants that training and job to be something that will help him in civilian life.

Fourth. The retirement plan.

Fifth. The salary, including possible bonus payments, but further increases are not the major factor.

I was looking all the time for deterrents that relate to reenlistment. Senators would be surprised, as I was, with this candor and frankness and their willingness to discuss the matter from the standpoint of the problem of the service they are in, and for themselves and for the good of the country. I was very pleased, in a broad sense, with what I learned. Of course, there were some exceptions. Following are the main deterrents that relate to reenlistment:

First. Poor living quarters. Many of these men, as I said, have a family by this time.

Second. If the work the enlistee is doing near the end of his first term is scarce, or not found at all in civilian life, he will not be interested in reenlisting unless he has airtight assurance that he will be given a real chance in another job of interest. He may have had a chance to see that he is going down a dark alley; it is a one-way street, with no way out. But I found many who are willing to stay in the service if they are given ironclad assurances that they will be switched over and given some other kind of training. If an enlistee feels he was not given training as promised, he is not likely to reenlist. I ran across that. It makes no difference whether he has been given a reason or whether he is very logical in his position that they did not do what they had promised. If he feels that way, he is a poor prospect for reenlistment—which emphasizes how important it is for the recruiting team not to overstate to these men what they are going to be given to do.

Third. The enlistee is adverse by nature to military life, including military discipline. That is no reflection on him. Some people are just that way. They do not like military life and discipline.

Fourth. He considers outside pay as being better.

The problem of retaining a junior officer—primarily first and second lieutenants—is very similar, with emphasis on the following subjects:

One. Military housing. That shows up with many of them when they are considering staying in the service.

Two. The matter of military discipline, which in many places is too soft to please the rugged individual and too hard to please the soft type. I was surprised that a number of young men—young officers, young corporals and sergeants—with whom I spoke said it is too soft, that they do not believe it is going to be a good unit and that they are not attracted.

In view of the foregoing, I think it will be a severe but not impossible problem for all four services to fill their ranks with volunteers if the necessary quality is maintained. That is, in part, a concession for me. I advised against going into this plan, but I want to support it now and give it a real chance and judge it as best I can on the merits. I am going to follow up this study in the same pattern I have outlined in this speech. Unless we rigidly maintain the quality level, we will not have many units with military uniforms on which are dependable units of military strength. That is just commonsense. Some of them never will be reliable and responsible military men, and any unit that has an appreciable number of them is not going to be a dependable military unit.

I am willing to spend the same amount of money—even more, if necessary—on fewer men than we have now, if the quality is actually maintained.

The difficulty of filling the ranks with all volunteers will be experienced by the four services in the following order:

First. The Army.

Second. The Navy.

Third. The Air Force—the Air Force is by no means immune from this problem. I base that on what these men told me in the privacy of these conversations.

Fourth. The Marines.

I was greatly encouraged by the volunteer Army concept as found in the 9th Division at Fort Lewis under Gen. William B. Fulton and his excellent staff and commanders, both commissioned and noncommissioned officers. The effort started from scratch with volunteers only shortly prior to May 1972, and as of mid-August they were only 2,000 short of their full manpower requirements on duty. These 2,000, I was told, were "in the pipeline," being either in basic training or at some other preliminary step.

These enlistees were all volunteers, with just a few exceptions scattered among various units where they had to have some experienced sergeants; and, of course, virtually all of the experienced sergeants and similar officers have been supplied from other units. They gave this general the 13th Division—it is numbered 9—just on paper. It did not have a single man in it. He was told it was up to him to get the volunteers.

From the latest arrivals to the commanding general, everyone that I contacted in the 9th Division has a very fine

attitude, which includes a "can do it" spirit. I believe that this effort of the 9th Division is going to be successful, but this does not mean it is possible to apply this same system to all 13 divisions. Most of these men are taken from the five nearby northwestern States, plus the State of Florida, which for some reason has been used as an additional recruiting area for the 9th Division.

In virtually all cases, whether they plan to reenlist or not, the enlistees say that their period in the service has been helpful to them, and most of them voluntarily expressed appreciation of the good that the service had brought them. There is a very slight dissent from this position, even though different enlistees assigned different reasons for this result.

In this partial examination of the way the Volunteer Army concept is working, I saw some streaks of encouragement, but there has not yet been time for a full trial. I think that it will require 2 to 3 years more time to give a full test and fair trial to the plan.

Patience and hard work by all the services will be required. It is essential that all this effort by all the services be based on the idea that quality manpower must be maintained. Quality must not be sacrificed to other considerations.

We can yield some on the number of personnel required, but we cannot yield on quality. Any service that does yield on these quality requirements renders a serious dissservice to the Nation and will destroy itself.

I think young girls who are willing to go into the service should be encouraged. It seems to me that they should be given more and more places and used more and more by the services—especially in the Air Force and the Army—but not for combat. They are an abundant source of talent and more extensive experiments of their use should be made.

To give the volunteer plan a chance, I will support all reasonable measures therefor, so that an exhaustive effort can be made to make the plan work.

I do not think that the Congress can or should pass any selective service legislation for at least 2 more years. Having gone as far as we have, we must be certain that this plan is given a real chance and, to that end, all commissioned officers and noncommissioned officers must make a special effort to see that they have done their best to make it work. I refer particularly to those in command at every level in every service.

I have no patience for those in the military uniform 2 years ago who were beating the drums for the all-volunteer concept, and who are now saying it will not work. The facts are that the plan has not been sufficiently tried, not by any means.

The burden now rests on the services. This includes civilians in places of authority and command.

The annual added cost to the military budget, because of this plan has been estimated by the Department of Defense at $3 billion. From 80 to 90 percent of this $3 billion increase will remain as an annual cost, whether this all-volunteer plan is retained or not. Congress is certainly obligated to see that the plan is given a fair trial and not dropped, at least until it has been given an exhaustive trial.

The Army, the Air Force, the Navy, and Marines all have a problem in getting enough of the right kind of personnel. I have been skeptical about the plan from the beginning but as of now I can see there is a chance that it can be made to work. I plan to make a further grassroots level study of the situation and problem and hope that many of my colleagues will do the same.

As this all-volunteer force plan is being tried out, we can greatly strengthen our military security by making our Reserve units and National Guard units more attractive and more effective, by providing them, where needed, with additional rifles, planes, guns, transportation and other equipment, supplies, and related items.

This will make it possible for the Regular services to further reduce their personnel requirements and at the same time save money.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield part of my time to the Senator from Mississippi.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan is to be recognized until 10:30 a.m. Does the Senator yield to the Senator from Mississippi?

Mr. GRIFFIN. Mr. President, the Senator from Oklahoma wishes to be recognized for 4 minutes. I yield 4 minutes of my time to the Senator from Oklahoma.

Mr. SYMINGTON. Mr. President, would the Senator be good enough to yield to me briefly? As the acting manager of the bill, I would like to ask a couple of questions on the subject.

Mr. GRIFFIN. Mr. President, except for the last 4 minutes, I yield the remainder of my time to the Senator from Mississippi, and I am sure that he will be glad to yield to the Senator from Missouri for questions.

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

Mr. STENNIS. Mr. President, in conclusion I make the point in these remarks that we are spending around $3 billion a year extra, because of this system. I think that is a fixed amount and very little of it will ever be repealed. It is a permanent cost. I think we would show a lack of faith if we turn away now and cut off the funds without giving the system a try. Only the military, the officers and noncommissioned officers in the services, can make it work.

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

Mr. STENNIS. I yield.

Mr. SYMINGTON. Mr. President, I appreciate the chairman yielding to me. I had the privilege of reading his speech this morning in the press. I was very much impressed with it. I would like to ask a couple of questions.

When I went into the military in 1918 I was paid $17 a month. It is my understanding now that a private goes into the service at $340 a month.

The testimony before the committee was that the amount of money involved was not the reason for the reticence of these young men wanting to go into the services. The information we received was that in order to fill the volunteer requirement we would have to get at least one-third of the high school graduates, even on a 50–50 basis. We know the Secretary of the Army now hopes for a 50–50 ratio.

Those of us who are for a reduction of troops in Europe, and have been for many years, as a result of the recommendation of President Eisenhower, feel the silver lining in the problem may be that they will not be able to get the volunteers necessary. They are tens of thousands short already.

I would like to ask the distinguished chairman this question. Does he feel that additional money beyond that already authorized and appropriated should be given to the military services in order to obtain the volunteers?

Mr. STENNIS. My present view is: Not very much. There may be some instances where we could appropriate a little more money and make allowances and increase these chances. But we already have the bonuses. I think they have almost enough money to do the job.

Mr. SYMINGTON. Is that the $3 billion?

Mr. STENNIS. It runs around $3 billion?

Mr. SYMINGTON. If they cannot do the job for $3 billion, and we have to maintain the structure as it is, we should go back to the draft.

Mr. STENNIS. Yes, if we cannot do it for that or near that, we would have to go back, but we have not given it a try yet.

Mr. SYMINGTON. Mr. President, in closing I wish to say to the able chairman that what worries me more and more is that the world has changed tremendously since World War II, but except for additional lethal strength we have not changed the services.

I thank the Senator for yielding.

The ACTING PRESIDENT pro tempore. The Senator from Michigan has yielded to the Senator from Oklahoma. The Senator from Oklahoma may proceed.

OPEC

Mr. BARTLETT. Mr. President, it is about time Congress and the administration took constructive, positive action to solve our severe energy problems. It appears that once again the leaders of this country are refusing to act to avoid or limit a crisis, but instead are waiting until the crisis occurs—to provide an emotional vehicle which all politicians will climb aboard in order to fashion crash legislation designed to eliminate the crisis. This has occurred before with problems in our cities, environment, economy, et cetera.

As long as Congress and the administration refuse to face up to the fact that foreign nations are beginning to push us

around, and as long as Congress refuses to take necessary action to increase our domestic supplies of conventional fuels for the near term, there will continue to be an open invitation to the petroleum exporting nations of the world to raise further their crude oil prices. Those nations selling oil will continue to apply pressure until they see what the market will bear. When they determine what the market will bear, we will have a significant shortage. If we do not act now, our Nation will suffer energy shortages at a high price in terms of the consumers' dollars, national security and position in world affairs.

Various comments about gasoline rationing and oil shortages of all forms of energy make it appear most likely that gasoline rationing, as well as other fuel rationing, is just around the corner. Congress is mainly to blame—but the administration is not without blame.

Two actions which should be taken immediately are: first, the administration should immediately remove price controls on crude oil and petroleum products, and second, Congress should move forward on legislation to deregulate the price of natural gas at the wellhead.

As long as price controls are maintained on either oil or gas, the domestic exploration and development and research necessary to make our Nation more self-sufficient—less dependent on nations that are continually making demands in a politically volatile atmosphere—is severely hampered.

Not only should the Federal Government take action and remove price controls on oil and gas, but also the Federal Government should establish a national energy policy that strikes a balance between our social, economic, and environmental goals and their respective demands upon energy.

If we fail to act now but instead wait for the crisis to force us into action, we will find serious shortages of geologists, petroleum engineers, drill pipe, drilling rigs, experienced drilling crews, service equipment, and personnel, et cetera. However, if the free market is permitted to work, the energy industry can proceed in a more orderly fashion to prepare better for the tremendous challenges facing it.

Unless a coordinated effort is made to overcome our energy problems, we can expect the foreign oil producing nations to continue to raise prices and pick the pockets of American consumers. We can expect the OPEC nations to make additional demands concerning our foreign policy. In short, unless we act now, we can expect to be subjected to extortion, because of our own indifference to see the signs which are plain to see.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. SYMINGTON. 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.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now return to the consideration of the unfinished business, H.R. 9286, which the clerk will state.

The assistant legislative clerk read as follows:

H.R. 9286, to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each reserve component of the Armed Forces, and the military training student loads, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on amendment No. 476 by the Senator from Arizona (Mr. GOLDWATER), which the clerk will read.

The assistant legislative clerk read the amendment, as follows:

At the appropriate place in the bill insert a new section as follows:

SEC. . (a) The Secretary of Defense is authorized and directed to carry out a comprehensive study and investigation to determine the desirability and feasibility of merging the Air Force Reserve and the Air National Guard of the United States. In carrying out such study and investigation the Secretary shall consider all the advantages and disadvantages of such a merger and shall give special consideration to (1) the increased efficiency which might be expected to result from such a merger, (2) the economies that might be expected to result from such a merger, and (3) the ability of the organization resulting from such merger to effectively perform its mission.

(b) The Secretary of Defense shall submit to the President and the Congress a detailed report of such study and investigation not later than January 31, 1975. The Secretary shall include in such report a detailed explanation of the facts and information which serve as the basis for any conclusions stated therein, and shall also include in such report such recommendations for legislative action as he deems appropriate.

Mr. GOLDWATER. Mr. President, I might note that the majority leader's name, Mr. MANSFIELD, should be listed on that amendment as a cosponsor. I also ask unanimous consent that the name of the Senator from Massachusetts (Mr. BROOKE) be added as a cosponsor of amendment No. 476.

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

Mr. GOLDWATER. Mr. President, I ask unanimous consent that a number of directives from the office of the Secretary of Defense pertaining to the general subject of the Reserve and the Guard be placed in the RECORD at this point in my remarks.

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

THE SECRETARY OF DEFENSE,
Washington, D.C. August 23, 1973.

Memorandum for Assistant Secretary of Defense (Manpower and Reserve Affairs).

Subject: Guard and Reserve in the Total Force.

Please have the Deputy Assistant Secretary for Reserve Affairs undertake a study of Guard and Reserve forces which will include consideration of the availability, force mix, limitations and potential of the Selected Reserve in a national emergency. The study should involve responsible officials of the Services and the Guard and Reserve components as well as appropriate agencies of the Office of the Secretary of Defense and the Joint Chiefs of Staff.

A study plan and outline should be submitted to me for approval not later than 30 days from this date.

J. R. SCHLESINGER.

THE SECRETARY OF DEFENSE,
Washington, D.C., August 23, 1973.

Memorandum for Secretaries of the Military Departments; Chairman, Joint Chiefs of Staff; Director, Defense Research and Engineering; Assistant Secretaries of Defense; Director, Defense Program Analysis and Evaluation; and Directors of Defense Agencies.

Subject: Readiness of the Selected Reserve.

An integral part of the central purpose of this Department—to build and maintain the necessary forces to deter war and to defend our country—is the Total Force Policy as it pertains to the Guard and Reserve. It must be clearly understood that implicit in the Total Force Policy, as emphasized by Presidential and National Security Council documents, the Congress and Secretary of Defense policy, is the fact that the Guard and Reserve forces will be used as the initial and primary augmentation of the Active forces.

Total Force is no longer a "concept." It is now the Total Force Policy which integrates the Active, Guard and Reserve forces into a homogeneous whole.

As a result of this policy, the Selected Reserve has moved towards timely responsiveness and combat capability. Application of this policy has improved equipping, funding, facilities, construction, programing and some training areas.

I recognize and appreciate the great amount of effort that has been made to develop the Guard and Reserve. Progress has been made.

However gross readiness measurements (which should be improved) indicate that we have not yet reached a level consistent with the objective response times. It is clear that we should move as much post-mobilization administration as possible to the pre-mobilization-period and streamline all remaining post-mobilization administrative and training activities.

We must assure that the readiness gains in the Selected Reserves are maintained and that we move vigorously ahead to reach required readiness and deployment response times in areas still deficient.

I want each Service Secretary to approach affirmatively the goals of producting Selected Reserve units which will meet readiness standards required for wartime contingencies. Each Secretary will provide the manning, equipping, training, facilities, construction and maintenance necessary to assure that the Selected Reserve units meet deployment times and readiness required by contingency plans. You will have my support and personal interest in overcoming any obstacles in these areas.

The Assistant Secretary of Defense for Manpower and Reserve Affairs is charged by statute and by Defense policy and Directives with the responsibility for all matters concerning Reserve Affairs. It is my desire that the Assistant Secretary of Defense for Manpower and Reserve Affairs, as a matter of priority, take such actions as are necessary to bring the Selected Reserve to readiness goals. In this respect, the Services, the other Assistant Secretaries of Defense, the Joint Chiefs of Staff. the Director of Defense Program Analysis and Evaluation and other Defense Agencies will provide support on a priority basis. Particular emphasis will be placed on assistance in manning, equipping and training. The Deputy Assistant Secretary of Defense (Reserve Affairs) will continue to function in accord with current statutes and directives.

To emphasize and to strengthen Selected Reserve management, I suggest a civilian Deputy Assistant Secretary for Reserve Affairs in the office of each of the Assistant Secretaries of the Military Departments for Manpower and Reserve Affairs. This Deputy should be supported by an adequate staff and be assigned responsibilities and functions similar to those assigned the Deputy Assistant Secretary of Defense for Reserve Affairs.

At the military level, the Navy has been given specific guidelines for developing the new office of Chief of Naval Reserve. The Air Force and Marine Corps management structure has produced combat readiness and that is the vital test. I expect that the Army's reorganization, with strong command emphasis and good selection of leaders will produce demonstrably visible improvement and I shall follow the results with interest.

The Chiefs of the National Guard and Reserve components will be the staff level managers of the Guard and Reserve programs budgets, policy, funds, force structure, plans, etc. They will be provided the authority, responsibility and means with which to accomplish their functions effectively. The overall management responsibility of the Chiefs of the Selected Reserve, under the Service Chiefs, will be supported by all other appropriate staff agencies.

In addition to the foregoing emphasis on Reserve Force policy and management, I am asking my Deputy Assistant Secretary for Reserve Affairs, with your support, to manage a study covering the issues of availability, force mix, limitations and potential of Guard and Reserve Forces.

In summary strong management with achievement of readiness levels in the Selected Reserve is among our highest priorities—we must and will accomplish this objective as soon as possible.

J. R. SCHLESINGER.

Mr. GOLDWATER. Mr. President, last week, in the discussion on this amendment, the distinguished chairman of the committee, the Senator from Mississippi (Mr. STENNIS), told me that he might have an amendment to my amendment. He has shown me that amendment. I am perfectly willing to take it. In fact, I think it makes a much better amendment out of my amendment than it would be without it. If the Senator is willing to offer it, I am willing to accept it.

Mr. STENNIS. Mr. President, I appreciate the Senator's statement. I was not ready at that time with any language, but I put this amendment together this morning. I checked with the Senator from Arizona. I greatly appreciate the fact that it is entirely agreeable to him. If my amendment is added to his amendment, I can support his amendment and this one also. I appreciate the opportunity to get it in. So when the time comes when I can offer this amendment to the amendment, I shall be glad to do so.

Mr. GOLDWATER. Mr. President, I see no need for further debate on this subject. I am perfectly willing to take the amendment offered by the Senator from Mississippi to my amendment.

The ACTING PRESIDENT pro tempore. Does the Senator ask unanimous consent?

Mr. GOLDWATER. Mr. President, I ask unanimous consent that my amendment be amended to include the language offered by the Senator from Mississippi (Mr. STENNIS).

Mr. SYMINGTON. Mr. President, reserving the right to object—and I shall not object—as I understand it, then, the able Senator from Arizona accepts this amendment, and the matter is presented at this time as far as he is concerned. Is that correct?

Mr. GOLDWATER. Yes. It is a much better amendment with that amendment. Frankly, I see no need for a rollcall vote, which was ordered on it last week.

Mr. President, I ask unanimous consent that the order for the rollcall vote be dispensed with.

Mr. SYMINGTON. That is what I was going to suggest.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the order for the rollcall vote is dispensed with.

Mr. STENNIS. Mr. President, may I take just a minute? There is no need for an explanation of this amendment. It speaks for itself.

I ask unanimous consent that my amendment to the Senator's amendment be printed in the RECORD at this point.

There being no objection, Mr. STENNIS' amendment to Mr. GOLDWATER'S amendment was ordered to be printed in the RECORD, as follows:

On page 1, line 5, insert the following: after the period after the word "States" delete the sentence beginning with the word "In" and ending with "mission."

Add the sentence:

In carrying out such study and investigation the Secretary shall quantitatively measure the effects on full costs and on combat capability and readiness, as well as enumerate the military and other advantages and disadvantages of at least the following alternatives: (a) merging the Air Force Reserve into the Air National Guard structure; (b) merging the Air National Guard into the Air Force Reserve structure; and (c) retaining both the Air Force Reserve and the Air National Guard. Such study shall also consider and give equal weight to the modernization needs of the Air National Guard and the Air Force Reserve, including: (a) aircraft; (b) ground equipment; (c) facilities; (d) communication, and (e) other pertinent needs. It shall also consider the related problems of recruiting, training and retaining sufficient manpower of needed quality to man the authorized units.

Insert on page 2, line 11, after the word "report": . . . a complete evaluation of each of the alternatives specified in paragraph (a) above, and . . .

Mr. STENNIS. Mr. President, it is merely spelling out clearly that the Air National Guard and the Air Force Reserve merger is going to be weighed from the standpoint of equipment, supplies, planes, and hardware of various kinds. I think the amendment proposed included that, anyway, but this spells it out.

Mr. GOLDWATER. I agree that this language is proper. I may point out that the material I have just inserted in the RECORD from the Office of Secretary of Defense includes directions from him to proceed with such study, including combat readiness, equipment, personnel, and so forth—everything that goes into making the Reserve and the Guard viable units.

We sometimes think of the Guard and the Reserve as two separate identities. Actually they are both Reserve forces. The Guard can be used by the Governor; the Reserve is used by the forces who are parent to that particular force.

Mr. President, before action is completed on this amendment, I ask unanimous consent that statistics involving the Air National Guard and the Air Force Reserve be printed at this point in my remarks, and this is all I have to say on the subject.

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

Air National Guard aircraft authorized, 1,533.

Types

F–100, F–102, F–101, F–106, F–105, F–4, F–104, A–37.

RF–4, RF–101, C–123, C–130, C–7, C–119, C–124, KC–97, B–57, EC–121, O–2.

Air Force Reserve aircraft authorized, 408.

Types

C–130, A–37, F–105, C–123.

Air National Guard

Fiscal year 1974 strength request (approved by committee), 92,291.

Fiscal year 1974 budget (in millions):

Personnel	$191.2
O. and M.	525.7
Construction	20.0
Procurement	30.5
Total	767.4

Air National Guard

Flying units, 92.

Aircraft, 1,533 authorized.

Air Force Reserve

Fiscal year 1974 strength request, 49,773.

Fiscal year 1974 budget (millions):

Personnel	$145.4
O. and M.	229.2
Construction	10.0
Procurement	21.8
Total	406.4

Air Force Reserve

Flying units, 54.

Aircraft, 408 authorized.

(Does not include associate units which fly C–141's and C–5's)

Air Reserve and Air Guard Combined

Strength, 142,064.

Budget

Personnel	$336.6
O. and M.	754.9
Construction	30.0
Procurement	52.3
Total	1,173.8

Mr. STENNIS. Mr. President, I have nothing more to say. I have talked with the Secretary of Defenese, who is interested in this matter. I understand he does not object. He said he would give the whole question urgent consideration.

Mr. THURMOND. Mr. President——

The ACTING PRESIDENT pro tempore. There is plenty of time on the amendment. Does anyone yield to the Senator from South Carolina?

Mr. GOLDWATER. Mr. President, I am glad to yield to the Senator from South Carolina.

Mr. THURMOND. Mr. President, this is a matter of great importance. The National Guard is vitally important to our States. What is proposed is a study of the entire matter. There is nothing binding about it. The proposal is to make a study. A study can be made.

Personally, I think the Guard ought to be made stronger, ought to have more modern equipment, more training, and assistance in every way possible. I feel the same about the Air Force Reserve.

This is a matter of great importance. These studies can certainly hurt nobody, and we are pleased to agree to it.

The ACTING PRESIDENT pro tempore. Do Senators yield back their time?

Mr. GOLDWATER. Mr. President, I yield back my time.

Mr. SYMINGTON. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. All time on the amendment having been yielded back, the question is on agreeing to the amendment of the Senator from Arizona, as modified by the amendment of the Senator from Mississippi.

The amendment, as modified, was agreed to.

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

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

The second assistant 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.

Mr. MANSFIELD. Mr. President, what is the pending business?

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendment to the bill (S. 1317) to authorize appropriations for the U.S. Information Agency, agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HAYS, Mr. MORGAN, Mr. ZABLOCKI, Mr. MAILLIARD, and Mr. THOMSON of Wisconsin were appointed managers of the conference on the part of the House.

NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair now lays before the Senate H.R. 9639, which the clerk will read by title.

The assistant legislative clerk read the bill (H.R. 9639) by title, as follows:

A bill to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs.

The ACTING PRESIDENT pro tempore. The unfinished business will be temporarily laid aside and remain in a laid-aside status until the disposition of H.R. 9639 or the close of business today, whichever is earlier.

The time for debate on this bill will be limited to 2 hours, to be equally divided and controlled by the majority leader and the minority leader, with 30 minutes on any amendments and 20 minutes on any debatable motions or appeals.

The Senate proceeded to consider the bill, which had been reported from the Committee on Agriculture and Forestry with amendments, on page 7, line 15, after "1975," insert a semicolon and "and by inserting after the word "State" each place it occurs the following: "; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare".; in line 23, after "(b)", strike out "The second sentence of section 17(b) of such Act is amended to read as follows: "In order to carry out such program during the fiscal year ending June 30, 1974, and during the fiscal year ending June 30, 1975, there is authorized to be appropriated for each such fiscal year the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, for the fiscal year ending June 30, 1974, and by August 1, 1974, for the fiscal year ending June 30, 1975, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program for the fiscal year concerned, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c))." "; and, in lieu thereof, insert:

"Section 17(b) of such Act is amended by inserting immediately after the second sentence thereof the following: "In order to carry out such program during the fiscal year ending June 30, 1975, there is authorized to be appropriated the sum of $40,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1974, the Secretary shall use $40,000,000, or, if any amount has been appropriated for such program, the difference, if any, between the amount directly appropriated for such purpose and $40,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c))."; at the top of page 9, insert a new section, as follows:

"ELIGIBILITY FOR SPECIAL MILK PROGRAM

SEC. 7. Section 3 of the Child Nutrition Act of 1966 is amended by adding at the end thereof the following: "Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk."

And at the beginning of line 8, insert a new section, as follows:

NATIONAL ADVISORY COUNCIL

SEC. 8. Section 14 of the National School Lunch Act is amended as follows:

(1) In subsection (a) strike the word "thirteen" and insert the word "fifteen" and insert after the phrase "(or the equivalent thereof)," the first time it appears the following: "one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area,".

(2) The first sentence of subsection (b) is amended by striking out "nine" and inserting in lieu thereof "eleven", and by striking "such" and inserting "the nine".

(3) In subsection (e), strike the word "Seven" and insert in lieu thereof the word "Eight".

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that no time be taken out of either side.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McGOVERN. 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. Since we are operating under controlled time, someone has to yield time.

Mr. MANSFIELD. Mr. President, I yield the Senator from South Dakota 1 minute; then I yield the remainder of my time to the Senator from Alabama (Mr. ALLEN).

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

Mr. McGOVERN. Mr. President, I ask unanimous consent that Mr. Kenneth Schlossberg and Mr. Alan Stone, who are staff members of the Select Committee on Nutrition and Human Needs, be granted the privilege of the floor during the consideration of H.R. 9639.

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

Mr. DOLE. Mr. President, I make the same request on behalf of a member of my staff, Mr. Bill Wohlford.

The ACTING PRESIDENT pro tempore. The Senate is under controlled time.

Mr. DOLE. Will the Senator from Nebraska yield me 30 seconds?

Mr. CURTIS. I yield the Senator whatever time he may want.

Mr. DOLE. I make the same request as made by the Senator from South Dakota in behalf of Mr. Bill Wohlford of my legislative staff, to have the privilege of the floor during the consideration of this measure.

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

Mr. CASE. Mr. President, I ask unanimous consent, during discussion of this bill and all amendments and motions, and so forth thereto, that my assistant, Stephen Bryen, be allowed the privilege of the floor.

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

Mr. ALLEN. Mr. President, I ask unanimous consent that there may be a quorum call with the time being charged to neither side.

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

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

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

Mr. CURTIS. Mr. President, I yield such time as he desires to the Senator from Kansas (Mr. DOLE).

Mr. DOLE. Mr. President, I ask unanimous consent that Vern Goetcheus and Lucy Knight of the minority staff of the Select Committee on Nutrition and Human Needs be allowed the privilege of the floor during consideration of H.R. 9639, to amend the National School Lunch Act.

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

Who yields time?

Mr. ALLEN. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture and Forestry be permitted to be present on the floor during the consideration of H.R. 9639, including all rollcall votes thereon: Michael R. McLeod, Forest W. Reece, James E. Thornton, Harker T. Stanton.

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

QUORUM CALL

Mr. ALLEN. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum, with the time to be charged equally against both sides.

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

Mr. ALLEN. 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. 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.

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

Mr. ALLEN. I yield.

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

DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1974—TIME LIMITATION ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, the following requests have been cleared with the leadership on both sides of the aisle, with Mr. THURMOND and Mr. TOWER, with Mr. STENNIS and Mr. SYMINGTON, with Mr. CANNON and Mr. HUMPHREY and Mr. MCINTYRE.

Those are the Senators directly involved.

I make the following requests:

I ask unanimous consent that upon the disposition of the Stevens amendment, the Senate proceed to the consideration of the Cannon amendment on the F–14, and that there be a limitation thereon of 2 hours, with a limitation on any amendment, debatable motion, or appeal of 30 minutes, the time to be divided and controlled in accordance with the usual form; and that no amendment not germane to the Cannon amendment be in order.

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

Mr. MCCLELLAN. Mr. President, will the Senator from West Virginia indicate the number of the Cannon amendment?

Mr. ROBERT C. BYRD. I do not have the number; but it is on the F–14. Perhaps I could get the number at the desk.

Mr. MCCLELLAN. That can be supplied at the desk.

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that on the amendment by the Senator from Minnesota (Mr. HUMPHREY), dealing with an overall cut, there be a limitation of 2 hours, with a time limitation on any amendment thereto of 30 minutes; and that the time on any debatable motion or appeal in relation thereto be limited to 30 minutes; all to be divided and controlled in accordance with the usual form, with the proviso that no amendment not germane to the Humphrey amendment be in order.

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

Mr. ROBERT C. BYRD. The amendment is not locked in.

Mr. HUGH SCOTT. Not locked in as to date.

Mr. ROBERT C. BYRD. That is correct.

I ask unanimous consent that at such time as the Humphrey amendment on troop levels is called up, there be a limitation of 2 hours, with a limitation on any amendment thereto or any debatable motion or appeal in relation thereto, of 30 minutes, the time to be equally divided and controlled in accordance with the usual form, and that no amendment not germane to the Humphrey amendment be in order.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that at the hour of 1:30 p.m. tomorrow, the Senate proceed to the consideration of the so-called Trident amendment, and that there be a 2½-hour limitation on that amendment tomorrow, the debate thereon to close at the hour of 4 p.m., the time on the amendment to be equally divided and controlled by the distinguished Senator from New Hampshire (Mr. MCINTYRE) and the distinguished Senator from Washington (Mr. JACKSON).

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I assume that the distinguished Senator from Washington (Mr. JACKSON) has been contacted on that change?

Mr. ROBERT C. BYRD. He has; as a matter of fact, he requested the change.

Mr. TOWER. Yes.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Wednesday, at the hour of 10 a.m., if not earlier, the Senate resume the consideration of the Trident amendment; that there be a limitation thereon, on that date, of 4 hours, the time to be equally divided and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from New Hampshire (Mr. MCINTYRE); that the time on any amendment thereto be limited to 1 hour, to be equally divided and controlled, in the usual form; that the time on any debatable motion or appeal in relation thereto be limited to 40 minutes, to be equally divided and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from New Hampshire (Mr. MCINTYRE), in accordance with the usual form; and that no amendment not germane to the Trident amendment be in order.

Mr. MCCLELLAN. Mr. President, will be Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. MCCLELLAN. Is it two amendments?

Mr. ROBERT C. BYRD. No, it is the same amendment.

Mr. MCCLELLAN. The Senator said we would begin that debate at 1:30 p.m.

Mr. ROBERT C. BYRD. On Tuesday, but I said that the Senate would resume the debate on the Trident amendment on Wednesday.

Mr. MCCLELLAN. Now, I understand the Senator is asking for 4 hours then, and 2½ hours on Tuesday.

Mr. ROBERT C. BYRD. Yes, 2½ hours on Tuesday and 4 hours on Wednesday.

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

Mr. MCCLELLAN. I thank the Senator.

TIME LIMITATION AGREEMENT ON MANSFIELD AMENDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the Mansfield amendment at such time as the Senate proceeds to debate thereon of 3 hours, to be equally divided between the distinguished majority leader (Mr. MANSFIELD) and the distinguished Senator from Texas (Mr. TOWER). Mr. President, the Mansfield amendment already is in the second degree, is it not?

The PRESIDING OFFICER. The Chair would state that the Mansfield amendment is in the second degree and that a substitute for that amendment would not be in order.

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

Mr. ROBERT C. BYRD. I yield.

Mr. HUMPHREY. The troop level amendment which I spoke about to the majority leader and the majority whip related to what might happen to the Mansfield amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. HUMPHREY. Would I be precluded from offering that amendment in

light of the fact that the Mansfield amendment is in the second degree?

Mr. MANSFIELD. That is right.

Mr. HUMPHREY. In other words, I would not be forcelosed from offering it, once the Mansfield amendment is disposed of.

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

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

Mr. ROBERT C. BYRD. I will be glad to yield in just a moment but first, for purposes of clarification, we have a time limitation on the amendment by Mr. MANSFIELD, which is an amendment in the second degree, it being an amendment to the amendment by Mr. CRANSTON.

Do Senators wish to reach an agreement on the Cranston amendment at this time?

Mr. MANSFIELD. If the Senator will yield, I do not think that is necessary.

Mr. ROBERT C. BYRD. Very well. I yield to the distinguished Senator from Georgia.

Mr. NUNN. Has the rule been set on the Jackson-Nunn amendment at this point in time?

Mr. ROBERT C. BYRD. It has not.

Mr. NUNN. Is the Humphrey amendment an amendment in the second degree?

Mr. ROBERT C. BYRD. That would depend on when Mr. HUMPHREY offers it and what he offers it to. If he offers it to the unfinished business, it would be an amendment in the first degree; if he offered it to some other amendment, if it were germane, it would be an amendment in the second degree. That remains to be seen.

Mr. NUNN. But the Mansfield amendment is in the second degree, and it would not be to that.

Mr. ROBERT C. BYRD. That is correct.

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

Mr. ROBERT C. BYRD. I yield.

Mr. THURMOND. I understand that the Senator wishes to transfer the Jackson-Nunn amendment and the Hartke amendment.

Mr. ROBERT C. BYRD. I am not asking for that at this time. I am leaving the Senate with flexibility in that regard.

Mr. THURMOND. I see no objection.

Mr. MANSFIELD. Has the Chair ruled on the Mansfield amendment?

The PRESIDING OFFICER. Yes. The request has been agreed to.

Mr. ROBERT C. BYRD. I wish to recapitulate for the information of my colleagues, if the distinguished Senator from Alabama will allow me to proceed.

Mr. President, I ask unanimous consent that I be allowed to proceed for not to exceed 3 minutes, with the time not to be charged against either side on the school lunch bill.

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

Mr. ROBERT C. BYRD. Mr. President, following the school lunch bill today, the Senate will proceed to consider the McGovern amendment on economic conversion on which there is a 2-hour limitation.

Upon disposition of that amendment, the Senate will proceed to the consideration of the Eagleton amendment on the XM–1 tank on which there is a 2-hour limitation.

Following that, the Senate will proceed to consider the Stevens amendment on housing allowances, on which there is a time limitation of 1 hour.

Thereafter, the Senate will take up the Cannon amendment on the F–14, on which there is a 2-hour limitation.

Thereafter, the bill is open to further amendment.

On Tuesday, beginning at 1:30 p.m., the Senate will proceed to the consideration of the amendment on the Trident. Debate will ensue for 2½ hours and conclude at 4 p.m., at which time the Senate will take up the Presidential message on the veto of the SBA bill. The debate will last for 1 hour on the Presidential override; it will begin at 4 p.m. and the vote will occur at 5 p.m.

After 5 p.m. the Senate will return to the consideration of the military procurement bill.

Prior to 1:30 p.m. tomorrow the day is open for consideration of amendments to the military procurement bill.

On Wednedsay, beginning at 10 a.m. the Senate will resume consideration of the Trident amendment and proceed thereon for 4 hours, after which the remainder of the day is open for amendments or for continuation of debate on the Trident amendment, should circumstances so dictate.

That is as far as we have proceeded in connection with locking in amendments as to dates. However, Senators will be interested in this recapitulation.

The time limitation agreement already has been secured on the McGovern amendment dealing with the categorical ceiling. Four hours have been agreed to on that amendment. A time limitation of 4 hours has been agreed to on the Proxmire amendment No. 515 dealing with an outlay ceiling. A time limitation has been agreed to of 4 hours on the SAM D missile, amendment No. 487. A time limitation of 2 hours has been agreed to on the Hughes amendment No. 493. This is the amendment the Senator called up the other day and then pulled down. A time limitation has been agreed to on the Humphrey amendment dealing with an overall cut of 2 hours. A time limitation of 2 hours has been agreed to on the Humphrey amendment dealing with troop levels. A time limitation has been agreed to on Mr. CLARK's amendment No. 519 which would cut funds for aircraft carriers, the time limitation being 4 hours.

Mr. HUGH SCOTT. Mr. President, the Senator did not mention the Fulbright amendment.

Mr. ROBERT C. BYRD. That would fall in the category of 30 minutes allowed for amendments to the Hughes amendment. I wish to ask the Chair if it is correct that amendments to the Hughes amendment No. 493 are limited to 30 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. That covers all amendments that the leadership on both sides knows about, with these exceptions. The Senator from Wisconsin (Mr. PROXMIRE) has an amendment on research and development. Mr. JACKSON and Mr. NUNN jointly have an amendment. Mr. KENNEDY has one or two amendments.

On the Hartke amendments Nos. 494 and 501 an agreement has been entered into with 2 hours of debate on each.

Mr. MANSFIELD. And the Mansfield amendment.

Mr. ROBERT C. BYRD. Yes, on the Mansfield amendment there is a time limitation of 3 hours.

Mr. HUGH SCOTT. Mr. President, will the Senator yield for a clarification?

Mr. ROBERT C. BYRD. I yield.

Mr. HUGH SCOTT. I would, therefore, assume from the recapitulation that the distinguished assistant majority leader would not expect the Mansfield amendment to come up before the time following the vote on the SBA veto which occurs at 4 p.m. on Tuesday.

Mr. ROBERT C. BYRD. The distinguished Republican leader is preeminently correct.

Mr. HUGH SCOTT. Enjoying a reputation of being preeminently correct in some respects——

Mr. ROBERT C. BYRD. The Senator is always preeminent.

Mr. HUGH SCOTT. I thank the Senator. May I further suggest for the benefit of the Senate that what we are engaged in here is an opportunity to try to find a way, hopefully, to vote before Friday on all amendments.

Mr. ROBERT C. BYRD. Yes.

Mr. HUGH SCOTT. In order that, finishing that, we may, again, hopefully finish the bill this week.

Mr. ROBERT C. BYRD. And thus avoid a Saturday session.

Mr. HUGH SCOTT. The Senator has anticipated me. And thus avoid a Saturday session. So I do hope we can work this out in such a way that we will not have the crucial vote on Friday, in order to accommodate a great number of Senators.

I thank the Senator.

Mr. ROBERT C. BYRD. I thank the distinguished Republican leader.

I thank the distinguished Senator from Alabama for his usual courtesy, cooperation, and patience.

Mr. ALLEN. I thank the distinguished Senator from West Virginia.

NATIONAL SCHOOL LUNCH AND CHILD NUTRITION ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (H.R. 9639) to amend the National School Lunch and Child Nutrition Acts for the purpose of providing additional Federal financial assistance to the school lunch and school breakfast programs.

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

The pending measure is H.R. 9639, the

amendments to the National School Lunch and Child Nutrition Acts, popularly known as the school lunch program.

On Thursday, September 13, 1973, the Subcommittee on Agricultural Research and General Legislation held hearings on proposed amendments to the child nutrition program.

The Committee on Agriculture and Forestry and the subcommittee regarded this legislation as emergency legislation. The distinguished chairman of the committee (Mr. TALMADGE) requested that an early hearing by the subcommittee be held on the bill. Such hearing was held, and the bill was passed out of the subcommittee and given expeditious handling by the full committee.

At the subcommittee hearing I pointed out that the committee was faced once again with the need to take emergency action on behalf of that program.

In March of this year the committee considered, the Senate approved, and the President signed into law another emergency measure which was designed to require the Department of Agriculture to make up for an anticipated shortfall of donated commodities to the child nutrition programs by an increased Federal cash reimbursement to States and local communities.

This bill had reference to the provision of law under which the Secretary was furnishing the school lunch program 7 cents per lunch in commodities for each child in the lunch program, whether that child was a needy child, getting a free lunch, a reduced price lunch, or whether the child paid for the lunch.

There had been a shortfall in the amount of commodities that were available for distribution, and it was not possible to discharge this obligation in commodities. So this legislation provided that where the Secretary was unable to provide the 7 cents per lunch per child in kind, in commodities, he would be required to pay cash to the school lunch program.

That measure was passed with very little or no opposition and signed into law by the President, and its significance will be pointed out later.

In the 92d Congress it was necessary to pass three different bills to make changes in the child nutrition program and to provide for increased Federal reimbursement to states and local communities for the child feeding programs.

At that time the amount that was provided to be paid by the Secretary for the school lunch program was raised from 6 cents to the present 8 cents per lunch. That is a payment that is made for every child getting a lunch of any sort. The free and reduced price lunches account for approximately only one-third of all the lunches served, and the children pay for the remaining two-thirds of the lunches that are served. So the 8 cents at present is paid not just for the free and reduced price meals; it is also paid for those children who supposedly pay for the cost of their meals.

A 2-cent increase in this payment sounds like a mighty little to be concerned about, but each cent increase multiplied by the number of lunches costs $41,750,000. Already the House bill has added 2 cents per lunch to this payment. So that increase alone amounted to $83,500,000.

We will recapitulate in a moment the total amount being paid by the Federal Government on this measure.

The new emergency measure now before the Senate, H.R. 9639, as passed by the House of Representatives on September 13, 1973, and approved by the Senate Committee on Agriculture and Forestry on September 19, 1973, would again increase the Federal cash reimbursement for the school lunch program and the school breakfast program to provide relief for the Nation's schools which are faced with sharply increased costs of preparing meals. In addition—the House bill does this—one, make permanent the requirement that the Secretary of Agriculture make cash payments to the States of any funds programed for the purchase of commodities which he had been unable to expend for such purpose.

That was only a 1-year provision as passed in the last Congress, and the House bill does make that requirement permanent—that to the extent that the Secretary of Agriculture is unable to furnish the 7 cents in commodities programed for each child in the program to receive a meal of any sort, to the extent of the shortfall, the amount must be paid in cash to make up the difference. That is in addition to the present 8 cents. Each 1 cent costs the Government $41,750,000. That is made permanent.

Second, the bill as it comes from the Committee on Agriculture and Forestry of the Senate extends the authorization for the special supplemental food program—an amendment which was sponsored by the distinguished Senator from Minnesota (Mr. HUMPHREY)—to June 30, 1975, and provides an increased authorization for fiscal year 1975 of $40 million.

Third—another addition by the Senate committee—this was an amendment sponsored by the distinguished Senator from South Dakota (Mr. MCGOVERN)—makes agencies of Indian tribes eligible to administer the special supplemental food program;

Fourth, require that the special milk program be available to any school or nonprofit child care institution that requests such program and require that children who qualify for free lunches shall be eligible for free milk. This amendment was also sponsored by the distinguished Senator from South Dakota (Mr. MCGOVERN) and the distinguished Senator from Minnesota (Mr. HUMPHREY).

This not only extends the special milk program as we have known it up to the present time, but it also makes another change, requiring that every child who qualifies for a free lunch shall also be eligible for free milk. This addition would cost the Government an additional $16 million. And the cost of the milk program would be $88 million more than is budgeted for this year.

Fifth, it increases the membership of the National Advisory Council on Child Nutrition from 13 to 15 members by adding an urban and a rural school lunch program supervisor; and

Sixth, it changes the method of apportioning funds for free and reduced-price lunches from an apportionment based on the number of needy children in each State to a performance basis, calculated upon the number of free and reduced-price lunches served in a State.

In the present system the money is apportioned among the States on the basis of the number of children in each State from ages 3 to 17. It is a statistical, theoretical figure, whereas the Senate bill bases apportionment on the number of meals actually served, which actually puts the money where the need actually is.

Now, as to the increased reimbursements provided by the bill, they are as follows:

One. Lunches: (a) The basic minimum reimbursement for lunches would be increased from the present 8 cents to 10 cents per lunch. It has gone up another 2 cents from the raise in the 92d Congress when it was raised from 6 cents to 8 cents. The year before it was raised to 6 cents; and for fiscal year 1974 the additional minimum reimbursement for free lunches would be increased from the present 40 cents to 45 cents per lunch and the additional minimum reimbursement for reduced-price lunches would be increased to 35 cents per lunch.

The program provides that three types of money are pumped into this fund by the Federal Government. In the first place, under the present law 8 cents is paid by the Federal Government for each child eating a school lunch. That is for all children, whether paying children or children getting a free lunch.

Then, in addition, the present law provides 40 cents for each child getting a free lunch. It then provids an additional 7 cents for commodities or the equivalent in cash.

So, if we added those figures up, there is 40 cents under the present law and if we would add the 8 cents and the 7 cents, it would be 55 cents for the free lunch.

The House bill, as approved by the Senate committee, would raise this from 8 cents for each lunch served to 10 cents, and the 40 cents would be raised to 45 cents. The commodities would remain the same. So it would be 45 cents plus the 17 cents, or 62 cents paid by the Federal Government for each free or reduced price lunch served.

If the child is paying for the lunch—and about two-thirds of the children do and if the money is not used for them, if they are in fact fully paying for their lunch—then the subsidy or payment of 10 cents and 7 cents could all be used for the free or reduced-price lunches.

So it would actually treble that. Seventeen cents times three would be 51 cents, and when added to the 45 cents could actually provide a total of 96 cents per free lunch, if the 10 cents per lunch and the 7 cents for commodities were applied entirely to free lunches. This is what the Federal Government provides for the program.

I believe in States rights, but I also believe in States responsibilities. I believe that the local and State governments should take up some of the funds. It is not only a Federal program, but it is also a local program as well.

Two. As to breakfasts, the basic minimum reimbursement for breakfasts would be set at 8 cents per breakfast, the additional minimum reimbursement for a free breakfast would be set at 20 cents, and the additional minimum reimbursement for a reduced-price breakfast would be set at 15 cents.

In considering this emergency measure and other bills before it, the committee felt that it should not attempt to consider new programs or to make controversial changes in the basic structure of our child nutrition programs. In the interest of time and money it decided to report the bill as passed by the House with a minimum of committee amendments.

But, the need for this bill now is unassailable.

The committee received a number of reports from school officials around the Nation that the school districts are faced with a severe financial crisis due to the rising cost of operating a school lunch and school breakfast program. Faced with unprecedented escalation of food costs, many school districts have been forced to take emergency measures. They have begun to reduce the quantity and quality of meals served in schools and they have raised the price that students must pay for a meal.

These undesirable emergency steps are having an unfortunate effect on participation in the school lunch program. The committee has received reports that the schools are experiencing a 1-percent decrease in participation in the school lunch program for every one cent increase in the price of a school lunch.

Mr. President, that does not mean that they cannot get a meal. The parents probably want them to take a lunch from home. And the fact that they are not participating in the school lunch program does not necessarily mean that they are not getting an adequate meal. But the failure of the Federal Government to provide these schools with some immediate relief does seriously jeopardize the national school lunch program, both for the current year and years to come.

The longstanding school lunch program and the new school breakfast program are two of the most successful of all Federal programs. This success is due in no small part to the fact that the program depends so heavily on sound administration and financial participation by State and local community authorities.

At the present time State and local communities share a sizable portion of the financial burden of the child nutrition programs. And the local contribution has been increasing, but not as rapidly as the Federal contribution.

For example, in 1970 State and local direct appropriations for the child nutrition programs amounted to $185.1 million. The 1973 estimate is now $376.1 million.

The local government puts in as of this present time $376 million. Other local contributions, including services, decreased however from $361.6 million to $317.8 million. These local contributions, which would be volunteer services, possibly the rent on the facilities, PTA drives, and local efforts all added up. That amount is going down, and it is going to continue to go down as long as the Federal Government continues to pick up all of the expenses. Payments by children also decreased from $1.105 billion to $1.063 billion. Over the same period, Federal contributions for the child nutrition programs increased from $718 million to $1.4 billion.

So, when we speak of the present bill increasing the payment under section 4 from 8 cents to 10 cents, and when we speak of that as being only 2 pennies, I would point out again that it runs up to quite a lot of money, $83.5 million, for each 2-cent raise.

The expenditures for 1973 by the Federal Government on the child nutrition program, as I have stated, were approximately $1.4 billion. The budget request for this year is $1.518 billion—$1,518,000,000—which is an increase of approximately $125 million.

Well, what does the committee do? The committee adds to that $83.5 million for the section 4 funds, $29 million for the section 11, and $16.5 million for the school breakfasts, making an additional $129 million.

Then the special milk program adds $88 million to the reduced request of the administration, and then the WIC program, the special food for women, infants, and children, sponsored by the distinguished Senator from Minnesota (Mr. HUMPHREY), will add an additional $40 million in 1975, so that, with the administration raising the budget $125 million, the committee further adds $217 million for 1974 over the budget, and in 1975 it will be $257 million, if it does not go up more.

Of the total 394.7 million lunches served in April 1973, 35.1 percent were free and 1 percent were at a reduced price. The rest of them were paid for.

The committee feels strongly that it would be a grave mistake to change the philosophy of the program to the extent that the Federal contribution would far overshadow State and local community participation.

This cooperative effort has produced very desirable results and we want to keep it that way.

There is no Federal program I believe in more than the national school lunch program. This program is an excellent example of how Federal, State, and local governments can work in partnership to provide a needed service to the people. In this partnership each level of government has its responsibilities and each has a financial burden to bear. Each level of government has an interest in giving the taxpayer the highest possible return on his tax dollar.

In my own State of Alabama, we have one of the strongest school lunch programs in the Nation, with over 93 percent of the schools participating. The tradition of local responsibility has made our program a good one.

The committee bill would provide the State and local governments with some relief from escalating food costs, but it would also preserve the partnership that has made our child nutrition programs strong.

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

The PRESIDING OFFICER. Who yields time?

Mr. CURTIS. Mr. President, I yield myself 10 minutes.

In considering school lunch legislation, I think there are a few basic facts which we should present to the Senate.

One is that this is not a program confined to assisting needy children. It is not a program that is limited to providing school lunches for children unable to buy for themselves. It is not limited to schools or communities where the standard of living and the income falls below the national average.

This is a program that reaches all schools in all localities. This is a program that the wealthiest school district in the United States shares in, just like all other districts. This is a program where the Federal subsidy on the lunch provided goes to all schoolchildren, regardless of the income of their parents.

I am afraid sometimes we become a bit emotional over these issues, because all people of good will are concerned about the poor and the needy. Most people feel that if Federal money is to be handed out for anything connected with our schools, consideration should be given to those localities that are just unable to finance their school expenses in any proper way at all.

We might also give thought to the fact that we are forever amending the school lunch program on an emergency basis. In the 92d Congress, Congress acted three times to increase the Federal contribution to the school lunch program, and we have already done so once in this, the 93d Congress.

At this point in time, the Federal Government is providing almost four times as much as all State and local governments combined for school lunches, and just slightly less than the total contributions of State and local governments plus meal payments by the students.

We have some interesting figures as to just what has taken place. Congress has voted appropriations for school lunch and child nutrition legislation which have resulted in tripling of the Federal contribution to school lunch and child nutrition programs during the last 5 years. Not doubling, but tripling, from $500 million in 1968 to a budget request for $1.5 billion this fiscal year. It is a Federal program which has increased from 1968 to the present time, from $500 million to $1.5 billion. And again I point out this is not a program that is confined to providing school lunches for needy children or children who cannot pay all or any part of the cost of the meals.

Mr. President, during the time that the Federal participation has tripled, State and local government appropriations went from $185 million in 1970 to $376 million in 1973; but during that time, Federal expenditures went from $700 million to $1.4 billion.

The House of Representatives sent us

a bill increasing Federal participation in the cost of school lunches by 2 cents per meal. That sounds like a small amount of money, but the cost of such an increase amounts to about $83 million. There may well be an effort from the floor to raise what the House has done and raise what the Committee on Agriculture and Forestry has approved by another increase of $83 million.

If that floor amendment is adopted, it will mean that the bill alone will carry an increase of 50 percent, because the Federal cost of meals is now 8 cents. The House and the committee are recommending it be raised to 10 cents—which I shall support—but if we go further and raise it to 12 cents, that will be a 50-percent increase in this one Federal program.

Mr. President, can we do it? Can we take all Federal programs and raise them by 50 percent? We may hear many speeches in this Chamber concerning the need for nutrition. We may hear speeches in this Chamber concerning the people of low income; but I would remind you, Mr. President, that is not what the program is all about. It is a program for everyone. I think that we need to take an overall look. Maybe it is not possible and not wise, to try to find out which school districts and which localities can pay for their own schools. Maybe it is. Maybe it does create many problems, to have a subsidy for the price of a lunch for some children and not for other children. But, on the other hand, the way the program is going, we should take a look at it.

Therefore, a little later, I expect to offer an amendment that would make it possible for Congress to have before it all the facts to reappraise the program and see what basic changes should be made.

Since this is administered on the Federal level by the Department of Agriculture, my amendment, which I will offer later, would be one that would direct the Secretary to make a study of the direction that this is taking and to supply us with all the facts and to get that report back to us by the end of this fiscal year, June 30, 1974.

Mr. President, in addition to the increase in costs provided in the House bill, the Senate committee did adopt some amendments which will add materially to this. While I do not agree with what was done in the committee, I expect to vote for the bill.

However, I raise a word of caution about increasing Federal participation with a floor amendment because we are appropriating money for middle-class people, the well-to-do and the wealthy to help pay their grocery bills—to help pay for their food. In light of all the problems the Federal Government has with taxes and so forth, I think that is a questionable practice.

Also, we will be increasing Federal participation to assist certain schools and localities which can make no claim whatever to being a depressed area or in areas of low income and unable to provide these things for themselves.

It seems to me that here we have a program that many value and has so many virtues, but it also has been a periodic patchwork of emergency legislation and is now at the point where it has been amended three times in the past Congress and once previously in this Congress. Since 1968, Federal expenditures have gone from $500 million to $1.5 billion. I think it is time, if we are going to display any responsibility, to take a look at this and certainly not to amend this bill on the floor.

Mr. President, I yield the floor.

Mr. HUMPHREY. Mr. President, might I ask of the distinguished manager of the bill, would it not be desirable, for the purpose of this debate and whatever amendments might be offered, to adopt the committee amendments en bloc?

Mr. ALLEN. Mr. President, I appreciate the suggestion of the distinguished Senator from Minnesota, but I believe it would be well to consider each amendment separately. If the Senate has no objection, we will proceed in that direction.

Mr. HUMPHREY. Fine.

Mr. ALLEN. Does the distinguished Senator wish to speak on the bill at this time?

Mr. HUMPHREY. Yes.

Mr. ALLEN. Mr. President, I yield to the Senator from Minnesota such time as he may desire.

Mr. HUMPHREY. I thank the Senator very much.

Mr. President, the school lunch program of this Nation faces a crisis of historic proportions. That is evident by the surveys and the studies that have been made individually and by committees of the Congress as well as by school authorities. The rapidly escalating cost of food, the inability of many school districts to secure bids for basic foodstuffs, has made it very difficult and in some cases almost impossible for some school lunch districts to operate a program this year, if immediately relief is not forthcoming.

Therefore, of course, we have before us this bill, H.R. 9639, as adopted by the House, with what I think and what I believe are important and strengthening amendments that were approved by the Senate Committee on Agriculture and Forestry. My hope is that the amendments will be adopted along with other amendments that we shall offer, further to strengthen this measure.

The school districts and the school authorities tell us that their food costs have gone up as much as 15 to 20 percent in the past 12 months. In fact, I should note that overall food costs have gone up between 20 and 30 percent this past year. In the month of August this year, food costs went up over 6 percent. Those food costs are reflected in school budgets, and in the school lunch programs, just as they are reflected in individual family budgets.

So our school lunch program faces a very serious financial pinch. School budgets at the State and district level were adopted prior to action by Congress. The State legislatures have completed their school assistance programs already for the coming school year. School districts have to arrive at a school budget before the school year opens. Therefore, many of our school districts today simply have not been able to budget substantially increased amounts for school lunches, because the money is not there. Most of these school budgets are based upon what they call property tax revenues. Those taxes have been levied, the mill rate has been set, the revenues have been gathered, and the budgets have been outlined and are now effective.

Therefore, the entire school lunch program today is in jeopardy as these costs continue to go up. Most of the school budgets were programed sometime in the early part of the summer. Congress has had difficulty, in any of its programs of assistance to education, in getting its appropriations early enough to be factored into or phased into the school year budgets of local school districts. This has been one of the problems that surround the promise of Federal aid to education. For some reason or other, Congress thinks school starts at Christmas. The mothers and fathers know that is not the case. School opened in Minnesota in the last week of August. Yet, our aid to education program has not even passed the Senate or the House.

How can a school superintendent, a school authority, or a school board properly plan a school budget when they have to look to the Federal programs for anywhere from 8 to 10 percent of their total revenues? Yet, those Federal assistance programs come in so late that it makes it literally impossible for any sensible programing of school facilities or school programs.

The school lunch program is a long-established program. This Government has established by law a national nutrition objective or goal for the children of America—in other words, that they shall have good food, that they shall have good nutrition, and that the school lunch program is a part of that total, overall national objective.

In view of these rapid cost increases—I repeat, they have gone up at the rate of approximately 30 percent this past year, 6 percent this last month, and in many of the metropolitan areas, with a large number of school children, the costs are even higher—it is absolutely imperative that there be substantial increase in Federal aid to the school lunch program, to the school breakfast program, and to other supplemental feeding programs.

We are not arguing about whether we ought to have these programs. That has been decided by public law. Just as I have been critical of a President who impounds money that Congress duly appropriates—and thereby negates the purpose of the law—I would be critical of Congress, after having declared what the public policy is, if we do not follow through with the necessary resources to effectuate and achieve that policy goal.

It is quite evident that if there is going to be a continuation of our school feeding programs, we have to do what this bill calls for, at least at a minimum, and I believe substantially more. It would seem to me that the administration would be willing to provide school districts with prompt relief. As a matter of fact, there is sufficient authority under existing law, as the distinguished

Senator from Kansas (Mr. DOLE) pointed out in committee hearings on the bill, for increases in section 4, general assistance. But instead of the Government or the Department of Agriculture acting affirmatively, we have had to come back to Congress each time to legislate, by specific legislative act, increases in the general assistance program under section 4. We had to do so last year, when we raised it from 6 to 8 cents. The bill before the Senate calls for an increase, under section 4 of the national school lunch program, from 8 to 10 cents. It is my judgment—and it is the overwhelming judgment of the study made by the Select Committee on Nutrition—that it should go to 12 cents.

The reimbursement received by our school districts will be decreased this year unless Congress takes strong affirmative action. The administration has recommended that the special milk program be terminated for schools now serving lunches. Thank goodness this has been overruled, I understand, in conference between the House and the Senate on agricultural appropriations where there has been acceptance of the Senate figure of more than $97 million, which means that the school milk program will be continued at least on the basis of last year.

I see the distinguished Senator from North Dakota (Mr. YOUNG) in the Chamber. He has been in the forefront of this battle for years, to keep our feeding programs at a high standard. I know that he served on the conference committee which prevailed in keeping the Senate figure of $97.5 million for the school milk program.

Mr. YOUNG. Mr. President, will the Senator yiled?

Mr. HUMPHREY. I yield.

Mr. YOUNG. I thank the Senator for his kind remarks.

The House and Senate conferees did agree to accept the Senate figure on the school milk program of $97 million, as against the House figure and the budget figure of $25 million.

Mr. HUMPHREY. I thank the Senator for his reassurance on that.

This will restore the special milk program, which is a vital part of the overall nutrition program for our Nation's schoolchildren.

It appears that our schools can no longer depend on the distribution of surplus commodities, because those commodities are no longer surplus. We should note that traditionally our schools have received large quanties of pork, beef, poultry, cheese, flour, certain types of vegetables, and other commodities that have been in surplus. These commodity distributions were worth about 7 cents per meal, but last year the surplus commodities were not available in the normal quantities. Because the school districts did not receive the normal supply of agricultural commodities, I introduced emergency legislation which required the administration to provide the school districts additional cash reimbursement to make up for the shortage of commodity deliveries. This legislation was passed overwhelmingly by Congress, and it did provide the school districts with enough help to enable them to complete the last school year.

This year, the commodity situation is much more serious. We in the Committee on Agriculture provided in the so-called farm bill another year's extension of the cash payment in lieu of the surplus commodities. This bill, by House action and Senate committee action would make it permanent. This simply means that if the surplus commodities are not available, a cash equivalent shall be made available to the school to help the schools in meeting their feeding commitments.

The measure before the Senate also provides substantial increases in the school breakfast program, which is very necessary. It provides assistance for the free breakfast, as well as the free lunch program, on an increased basis.

All of these, I think, are very worthy and commendable actions on the part of the Senate committee and the House of Representatives.

I introduced legislation back in March known as S. 1063, a bill that would establish a nutrition education program for children, increase rates of reimbursement for the child nutrition programs, and strengthen our feeding programs in several other respects. One thing my bill as amended would do would be to increase the minimum rate for reimbursement for section 4 assistance from 8 to 12 cents. The original bill was 8 to 10 cents, but since last March there has been a substantial increase in food costs, I amended that bill to provide for an increase from 8 to 12 cents. That would be a minimum rate of reimbursement to reflect the yearly increase and costs of the basic school lunch program.

I also provided in this bill for what we would call an escalator clause that relates to the cost of food and labor that goes into the school lunch program. I wish to state that this does not necessarily mean that the reimbursement goes up; it could actually come down. There is reason to believe, in light of the market conditions as of now, that certain food commodities will drop in price. Pork has dropped as far as farmers are concerned, and likewise, beef and poultry. It has not been reflected yet in the supermarkets but there has been a substantial reduction in the price the farmer receives.

The proposal in my original bill would provide for yearly adjustment in the minimum rate of reimbursement to reflect yearly increases in costs in school lunch programs or yearly decreases. These are just some of the features I thought necessary.

The legislation before us includes many of the features offered by the Senator from South Dakota (Mr. MCGOVERN) and me. For example, it would increase the reimbursement for the school breakfast program to 8 cents. Schools would receive 15 cents for each reduced-price breakfast and 20 cents for each free breakfast up to 45 cents, to be made for breakfasts served in cases of severe need. The bill as reported to the Senate includes these features.

Mr. President, I am going to offer an amendment on behalf of myself and Mr. MCGOVERN, Mr. CASE, Mr. CLARK, Mr. MONDALE, and Mr. BIDEN. I wish to say a few words about the amendment and when the time comes for offering the amendment I will speak more specifically to each of them.

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

Mr. HUMPHREY. I yield.

Mr. McGOVERN. The Senator mentioned a number of Senators have joined in the cosponsorship of his amendment. Several other Senators have spoken to me who also would like to be added as cosponsors. I ask unanimous consent that in addition to the Senators mentioned, that the names of the following Senators be added as cosponsors: Senator HART, Senator HARTKE, Senator KENNEDY, Senator STEVENSON, Senator CRANSTON, and Senator JAVITS.

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

Mr. HUMPHREY. I thank the Senator.

Mr. McGOVERN. I thank the Senator for yielding.

Mr. HUMPHREY. Mr. President, I have an amendment I shall call up in due time which is at the desk.

While I have the floor I ask unanimous consent that my amendments be considered en bloc.

Mr. ALLEN. I object. At this time I would like to have them considered separately.

Mr. HUMPHREY. Mr. President, I have listened to the argument here about the cost of this program. Let me say that the people who get this program pay the taxes. Most of the recipients of the school lunch program or the school breakfast program are the children from working families in this country. Already they are paying plenty, young men and women, boys and girls, to receive a good, well-balanced meal for breakfast or lunch, one that will add to the health of the person getting the meal. We have all sorts of evidence that the school lunch program improves the health of students, helps in learning, assists in stopping school dropouts, and is generally beneficial to them.

The point is made that if we adopt these increases—and I shall offer an amendment on behalf of myself and other Senators—we are causing an increased cost of this program by many millions of dollars.

The PRESIDING OFFICER. All the time available to the Senator from Alabama on the bill has expired.

Mr. HUMPHREY. Then I shall send to the desk my amendment, and I will speak on it.

Mr. ALLEN. The committee amendments will first have to come up. The Senator will have time on them. The committee amendments will come before the Senate before the Senator from Minnesota can offer his amendment.

Mr. HUMPHREY. I thank the Senator. Does not the rule require that the committee amendments be adopted now?

The PRESIDING OFFICER. Yes. The clerk will state the first amendment.

The assistant legislative clerk read as follows:

On page 7, line 15, after "1975," insert a semicolon and "and by inserting after the

word 'State' each place it occurs the following: '; Indian tribe, band, or group recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare'."

The PRESIDING OFFICER. Thirty minutes is available on the amendment.

Mr. ALLEN. Mr. President, the amendment was offered in committee by the distinguished Senator from South Dakota (Mr. McGOVERN). It would allow Indian tribes to be eligible to administer the special supplemental food program. As the distinguished Senator pointed out in committee, there was an oversight. There was no intention to deprive Indian tribes of access to the program. As a matter of fact, the Indians need the program very badly. The committee went along with the amendment suggested by the Senator from South Dakota. I ask that the amendment be agreed to.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. McGOVERN. Mr. President, will the distinguished Senator yield me a couple of minutes?

Mr. ALLEN. I yield as much time to the Senator from South Dakota as he requires.

Mr. McGOVERN. As the Senator from Alabama has said, there was no real objection to the amendment in committee. As a matter of fact, the amendment is favored by the administration as well as by a unanimous vote in the Senate Committee on Agriculture and Forestry.

We have now about nine Indian reservations that have applied for the right to administer the program. I think it is well known in the Senate that the infant mortality rate and the malnutrition rate among the children on Indian reservations, and also among the adult Indian population on reservations, is higher than among any other group in the country.

All the amendment does is to authorize Indian tribes, Indian bands, or the Indian Health Service to administer the same kind of supplemental food program as is operated by other groups for non-Indian persons.

I am glad the distinguished Senator from Alabama supported the amendment in committee and that he is willing to accept it on the floor of the Senate. I hope it will be unanimously adopted.

The PRESIDING OFFICER. Do both sides yield back the remainder of their time?

Mr. ALLEN. I yield back the remainder of my time.

Mr. CURTIS. I yield back the rest of my time.

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

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the second committee amendment.

The assistant legislative clerk read the second committee amendment, as follows:

On page 7, line 23, after "(b)", strike out: "The second sentence of section 17(b) of such Act is amended to read as follows: 'In order to carry out such program during the fiscal year ending June 30, 1974, and during the fiscal year ending June 30, 1975 there is authorized to be appropriated for each such fiscal year the sum of $20,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1973, for the fiscal year ending June 30, 1974, and by August 1, 1974, for the fiscal year ending June 30, 1975, the Secretary shall use $20,000,000, or, if any amount has been appropriated for such program for the fiscal year concerned, the difference, if any, between the amount directly appropriated for such purpose and $20,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c))."'; and, in lieu thereof, insert:

"Section 17(b) of such Act is amended by inserting immediately after the second sentence thereof the following: 'In order to carry out such program during the fiscal year ending June 30, 1975, there is authorized to be appropriated the sum of $40,000,000, but in the event that such sum has not been appropriated for such purpose by August 1, 1974, the Secretary shall use $40,000,000, or, if any amount has been appropriated for such program, the difference, if any between the amount directly appropriated for such purpose and $40,000,000, out of funds appropriated by section 32 of the Act of August 24, 1935 (7 U.S.C. 612(c))."

Mr. ALLEN. Mr. President, as this bill came over to us from the House, it provided for $20 million for fiscal 1975 the same as for the present fiscal year, for the special supplemental food program. As a result of the fact that the administration did not implement this program, which was a 2-year program, for 1973 and 1974, and no money was spent in 1973, under court action the administration has been ordered to spend the $20 million in this fiscal year, making a total of $40 million to be spent this year under the so-called WIC program, originally sponsored by the distinguished Senator from Minnesota, the women's, infants', and children's supplemental food program. The effect of this committee amendment would be to maintain this level by increasing the amount authorized by the House for fiscal 1975 to $40 million.

It does not increase the amount that has been ordered to be spent this fiscal year, though it does double the original program as contemplated by the original Senate amendment which authorized the program. But the committee did agree on the amendment. The committee was of the opinion that it was an excellent program, and that $20 million would not be sufficient. Inasmuch as $40 million is available this year, it should be carried on in fiscal year 1975 at the same level.

I recommend the adoption of the committee amendment.

The PRESIDING OFFICER. Do Senators yield back their time

Mr. HUMPHREY. Mr. President, an important component of the legislation we are considering today deals with this special supplemental food program for women, infants, and children—WIC program. I am pleased that the Congress adopted the pilot WIC legislation that I proposed last year. This pilot program which is intended to provide high nutrient foods for malnourished infants and children—under 4 years of age—as well as to pregnant and lactating mothers, and which will provide us with data to determine whether a permanent, nationwide program should be established—is of fundamental importance to our efforts seeking the eradication of hunger in America. Substantial medical evidence indicates that children under 4 years of age can be irreparably harmed if they receive inadequate nutrition.

The WIC legislation that our committee has set before us today will extend the pilot program into fiscal year 1975. Although the legislation requires the Agriculture Department to spend $20 million in fiscal year 1974, the committee was aware that the true spending mandated for this year is $40 million. This is because a Federal district court in Washington, D.C., in a suit against the Agriculture Department, enforced our intentions under the previous legislation to establish the 2-year pilot project at a $40 million expenditure level; since the Department did not spend any money in fiscal year 1973, the funds to be spent in 1973 were carried over and mandated for expenditure in fiscal year 1974, pursuant to section 3 of the School Lunch Act. Our action acknowledges and leaves untouched the Federal district court's order with respect to fiscal year 1974. In addition, however, we have extended the pilot program into fiscal year 1975 at a mandated expenditure level of $40 million. Therefore, with the passage of this legislation, and with our commitment to this $80 million 3-year experiment, we are taking the preliminary steps necessary to assure that hungry infants will no longer be plagued by the severe and longlasting effects of malnutrition. I am hopeful you will support this vital effort.

I thank the Senator from Alabama for his help in this matter.

Mr. McGOVERN. Mr. President, through this legislation as passed out of committee, we are authorizing the continued implementation and operation of the special supplemental food program for women, infants, and children. Originally, this program as mandated for fiscal years 1973 and 1974 at a total expenditure of $40 million. Now, we are requiring the Agriculture Department to continue an additional year of WIC operations. The $40 million mandated for use in the WIC program for fiscal year 1975 is necessary to maintain the WIC projects that began with our original $40 million commitment. I believe our total WIC commitment under this bill—$80 million—will go far toward providing high nutrient food to thousands of impoverished infants who otherwise would be unwilling victims of malnutrition and its inevitable consequences.

Mr. CASE. Mr. President, last year at this time, Senator HUMPHREY ably impressed upon us the grave damage that malnutrition can cause to infants and young children. It was clear to us at that time that irreparable physical and mental damage due to malnutrition can best be avoided through the provision of highly nutritious foods to children during the early stages of their lives. We set out to solve this problem by creating the special supplemental food program for women, infants, and children. We authorized the WIC program for a 2-year period—fiscal year 1973 and 1974 and required a total expenditure of $40 million during that period. I strongly support

this legislation, therefore, because it reemphasizes our commitment of rescuing hundreds and thousands of infants from hunger and malnutrition. This new legislation authorizes WIC operations for fiscal year 1975 and requires expenditures of $40 million in that year. I believe that this body's total commitment of $80 million to the WIC program will do much to pave the groundwork for a permanent program providing necessary foods to this most vulnerable of our population.

Last year at this time, this legislative body took another step toward eradicating the threat of malnutrition amongst the impoverished children of this land through its passage of the WIC legislation. We now reaffirm this commitment to these infants by authorizing the continued implementation and operation of WIC for fiscal year 1974 and 1975. For fiscal year 1974, the sum of $20 million is and was specifically mandated for the WIC program. But this sum, of course, is in addition to any funds remaining unspent out of the $20 million mandated for use in fiscal year 1973. For fiscal year 1975, the sum of $40 million is now required. WIC, therefore, has become a 3-year program from which hundreds and thousands of infants can receive proper nutrition and thereby avoid the ravages of hunger and malnutrition. I believe this $80 million expenditure is the best possible investment we can make to insure the future health of this Nation's citizenry.

Mr. ALLEN. Mr. President, I yield back my time.

Mr. CURTIS. Mr. President, I yield back my time.

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

The amendment was agreed to.

The PRESIDING OFFICER. The last committee amendment will be read.

The assistant legislative clerk read the committee amendment, as follows:

At the top of page 9, insert a new section, as follows:

"ELIGIBILITY FOR SPECIAL MILK PROGRAM

"SEC. 7. Section 3 of the Child Nutrition Act of 1966 is amended by adding at the end thereof the following: 'Any school or nonprofit child care institution shall receive the special milk program upon their request. Children that qualify for free lunches under guidelines set forth by the Secretary shall also be eligible for free milk.'"

And at the beginning of line 8, insert a new section, as follows:

"NATIONAL ADVISORY COUNCIL

"SEC. 8. Section 14 of the National School Lunch Act is amended as follows:

"(1) In subsection (a) strike the word 'thirteen' and insert the word 'fifteen' and insert after the phrase '(or the equivalent thereof),' the first time it appears the following: 'one member shall be a supervisor of a school lunch program in a school system in an urban area (or the equivalent thereof), one member shall be a supervisor of a school lunch program in a school system in a rural area,'.

"(2) The first sentence of subsection (b) is amended by striking out 'nine' and inserting in lieu thereof 'eleven', and by striking 'such' and inserting 'the nine'.

"(3) In subsection (e), strike the word 'Seven' and insert in lieu thereof the word 'Eight'."

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

This amendment provides for the carrying on of the special milk program. The distinguished Senator from North Dakota mentioned a few minutes ago that the conference report on agriculture, environmental, and consumer protection appropriation—1974, has approved the $97 million appropriation for the special milk program, instead of the $25 million as proposed by the House. This amendment would go one step further than the present law.

According to estimates of the Department of Agriculture, it would require an additional expenditure of $16 million. So that if this amendment is adopted, it would require a supplemental appropriation to obtain the necessary funds. But the committee, even realizing that an additional expenditure of $16 million would be required, accepted the amendment.

The amendment requires that the special milk program be made available to any school or nonprofit child care institution that requests the program, and the amendment also requires—and this is not part of the present program—that children who qualify for free lunches shall also be eligible for free milk.

Notwithstanding the additional $16 million in expense, the amendment was accepted in committee. It does represent a rise over the budget of $88 million, but only $16 million more than has been agreed to in conference. It does result in being $16 million over the conference figure. The committee, however, recommended adoption of the amendment.

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

Mr. ALLEN. I yield.

Mr. McGOVERN. I think it is important to understand that while it was essential that the House-Senate conference on the appropriations for Agriculture take the steps that they did, I commend the Senator from Minnesota and others for providing money for the program.

It is also essential that the language adopted by the Senate Agriculture and Forestry Committee remain in the bill, because in the absence of that, the administration is now pursuing a direction which would make it impossible for children to participate in this program where there is any other food service. It would automatically eliminate the school milk program in those schools which had anything else known as food service.

To show how narrow that directive has been written, I would like to read from the language of a Department of Agriculture directive that went out to all schools with reference to the special milk program, dated August 28. This begins by explaining that no school with either a school lunch or school breakfast program or any other kind of food service would be permitted to participate, but then they include even those that have vending machines, and things like that, and they go so far as to say this:

For example, if the mothers' club sells hot dogs every Wednesday, this would be a food service.

That is hard to believe, but, nevertheless, that is an official directive of the Department of Agriculture. If there were a school where a group of parents came in just 1 day a week and sold hotdogs to the children in that school, it would automatically be eliminated from getting included in the milk program under the school lunch program, no matter how much money we appropriate for that purpose.

So it is essential that this language stay in the bill as added by the Senate Committee on Agriculture and Forestry, which says that any school or nonprofit child care institution shall receive the special milk program upon their request, whether they have a food service program or whether mothers sell hotdogs or whether there is a vending machine there today.

I hope very much the Senate will adopt this language overwhelmingly, and that it will stay in conference, because it is imperative that we retain this amendment, insofar as the nutritional needs of our children are concerned.

Mr. President, I ask unanimous consent to have printed in the RECORD the response of State school lunch directors to the survey conducted by the committee on school lunch costs.

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

RESPONSE OF STATE SCHOOL LUNCH DIRECTORS TO SURVEY BY SENATE NUTRITION COMMITTEE ON SCHOOL LUNCH COSTS

ALABAMA

3. Do you anticipate a decrease in the availability of commodities? Will this affect costs appreciably?

Yes, I do anticipate a decrease in commodities. The decrease in the availability of commodities will have a disastrous effect on the cost of producing meals. Had it not been for commodities and the commodity short-fall funds last year, many school food service programs in Alabama would be bankrupt.

a. There will be a significant reduction in the number of paying students participating;

b. There will even be a reduction in the number of students participating who are eligible to receive free or reduced price meals;

c. There is also the danger that school food service programs will reduce the quality and quantity of meals to the point where they will not meet the minimum nutritional requirements for reimbursement.

ARKANSAS

2. Many schools were forced to increase prices by 5¢ to 10¢ to students for paid meals during the past school year. The majority of schools report now that there is no alternative except to increase the price again this year. Increased charges to students will reflect a price of 45¢ to 50¢ for lunch and 20¢ for breakfast. [This action could result in a decrease in participation by as much as 6% to 10% of paid students.]

FLORIDA

4. Past performance has shown that when sales prices increase 5¢, that participation decreases by 10% and fixed costs remain the same. Therefore, we anticipate a reduction in participation of 12%–15%.

As you know, these students (the 12%–15%) are the borderline students—economically. That is, they are not economically

needy, but certainly not affluent enough to afford 65¢ lunches every day.

GEORGIA

2. School administrators recognized a need for 5 to 10¢ more revenue per lunch. Such an increase in sale price is expected to reduce participation of paying children by 10 to 20%.

IDAHO

4. If reimbursement rates are not increased, what will the specific effects be in your State? If they are, will participation decrease?

If reimbursement rates are not increased, schools will increase their prices accordingly. Participation will drop because increase in prices drops many children from the program. Many will not ask for a free lunch but will bring a lunch from home.

ILLINOIS

4. With the shortage of dollars for education, we see no alternative for the lunch program other than increasing prices. This will have to be done with the full knowledge that the effect will be a decrease in participation in direct proportion to the price increases. Our experience has shown that each penny increase in the cost of meals results in approximately a 1% decrease in participation.

5. We recommend the Type A reimbursement be pegged at a minimum of 12 cents per lunch; free lunch be reimbursed 48 cents.

INDIANA

4. Reimbursement rates should be increased in order that we may continue to feed children. If they are not, the needy schools will suffer more than the less needy and may even be forced to reduce or close their operation for lack of funds.

5. It is our recommendation that the reimbursement rates be increased to 12 cents per meal and a larger allocation of commodities or cash in lieu of commodities be made available to schools.

KENTUCKY

4. There is prevalent among school food service officials in Kentucky a cliche of a sort of which goes something like this: "Someone must pay the fiddler." The same is true as far as food is concerned, and the food bills as well as the labor bills must be paid. When there are three sources of funds, namely from the Congress, from a State appropriation, and from the paying child, in the face of increased prices the paying child must be tapped for an additional source of funds if the other two are leveled off. It is our feeling that unless sufficient funds are available to pay the bills the attitude of the school officials will be such that services will be curtailed and the performance affected so that a reduced participation rate will result. It also could be that the quality of the meal will be reduced to the point that the meal service will be rejected with a corresponding result in decreased participation. Still another factor would be that the greater reliance could be put upon the donated foods as they become available, and to the point where the repeated use of an item such as dry beans can create an attitude of rejection.

5. It is the recommendation of the Kentucky Department of Education that:

a. the general cash for assistance rate be increased to 10¢ from the present 8¢ rate;

b. the maximum rate for free lunches in "especially needy schools" be increased to 65¢ from the present 60¢ rate;

c. the Special Milk Program be funded in full and continued as during previous years; and

MAINE

(b) We are approaching the point in the program where local community effort is being taxed to saturation point. Most communities in the State of Maine have been very willing to support the program with tax appropriated funds but with spiraling costs the budgets for all school operations are being taxed to the limit.

(c) If prices to paying students have to increase again after the increase which was necessary March 1, 1973 we can expect a dramatic reduction in participation of paid meals. We are approaching the point where if paid meal participation continues to decrease, the program will become a "welfare program." This, in turn, will discourage the low income youth from participation as his participation will identify his economic status, particularly at the Junior High and High School levels.

5. (a) A minimum of 12¢ and 45¢ with an escalator clause to cover sharp increases in prices is needed. As we are now faced with emergency conditions with spiraling food and labor costs, we must have increased reimbursement rates prior to the opening of school so that administrators will have the confidence to start the programs at the beginning of the school year.

MARYLAND

4. If reimbursement rates are not increased, there will undoubtedly be an increase in the price of lunch to the paying child and/or a drastic reduction in the quality of the meal. A five cent increase in the lunch prices causes a 5–10% decrease in lunch participation or an 8% statewide decrease. School systems with the lower cost of lunch to the child have higher participation rates. A pilot study conducted in one local school system showed increased participation when the price of lunch was lowered.

5. With the availability of State money to help underwrite the cost of free and reduced price lunches, the area of greatest need in the State of Maryland is an increase in the national average lunch payment from general cash-for-food assistance for lunches from the present 8¢ to a national average of 15¢. This is urgently needed in order not to price the paying child out of the market.

MASSACHUSETTS

Without compensatory increases in federal cash reimbursements and in the value of available free food commodities, all school food service programs are headed for financial difficulty.

Increasing charges to the children, which have been at an average of 35 cents for lunches and 20 cents for breakfasts is not the answer. To offset anticipated 25% increases in labor and food costs, charges for lunches would have to be increased by about 15 cents and for breakfasts, about 10 cents.

Previous experience indicates to us that each 5 cent increase in charges will surely result in a 20 percent decline in the number of children purchasing either lunches or breakfasts. It is frightening to contemplate the separation of at least 300,000 children each day from needed nutritional supplementation.

You ask what suggestions we would make to improve these programs in light of increased costs. Rather than 10 cents, the average payment for paid lunches should be increased to at least 12 cents and the special assistance factor for free lunches to at least 55 cents. Breakfast reimbursement rates should be increased also in recognition of cost increases.

MICHIGAN

4. Without increased reimbursement rates to at least 12¢ under Section 4, and 50¢ under Section 11, combined with "commodity shortfall" legislation, our school lunch programs will be discontinued by the dozens. A few high schools have already dropped out in favor of a-la-carte and vending machine service.

MISSOURI

(4) For fiscal year 1974, a categorical state appropriation as required under Public Law 91-248 will provide approximately 1.4 cents per lunch. It is my judgment that if Federal reimbursement rates are not increased to cushion the shock of anticipated continuing inflationary trends there can be no doubt that participation on the part of paying students will continue to decline. History has told us that each time we have an increase in the charge for lunches it has the effect of pricing a number of the middle and lower middle income children out of the program. This is the very group that has represented our major participants in the expansion and growth of the program over the past 28 years. At the same time we should be reminded that the middle and lower middle income families represent the largest segment of our tax paying population that are contributing toward sustaining the availability of free lunches for needy children. In many, many instances there is very little difference between the income of these families and those declared to be eligible for free lunches under Federally mandated policy regulations. These are the families that are most drastically affected by inflation. Without their continued participation and contributions, we would seriously question the logic in continuing to operate School Food Service Programs strictly for the needy who are guaranteed free lunches by our Federal Government. The schools of this nation were established for the education and training of children (all children), the affluent, middle income, and the needy. At the present time, lunches are available to all children in our schools. The record will show that our lowest participation comes from the affluent; therefore, without the volume participation from the middle and lower middle income groups, it would seem illogical that we could justify continued offering of school lunches on school premises for just one segment of the school population, the needy. Even if lunch programs were continued on such a basis, would this not be a form of identification?

NEVADA

1. We estimate the average cost of producing a lunch will be 80 to 85¢ which is 20 to 25¢ more than last year. We estimate the average cost for producing a breakfast will be 45¢ which is 20¢ more than last year.

4. We believe participation will decrease unless reimbursement rates are increased.

SOUTH DAKOTA

4. If reimbursement rates are not increased, what will be the specific effects in your State?

With 30 to 35% of our students eligible for free lunches if reimbursements are not increased who will pay the difference? Many school boards are having difficulty now meeting costs and will not channel funds into breakfasts and lunches. Their only alternative would be to force the paying child to absorb the costs. This will destroy programing.

If rates are increased it will provide more opportunity for the needy to eat and allow managers some alternative from beans and macaroni. The rates should go to 12¢ and 50¢ but 10¢ and 50¢ could help ensure survival of many programs.

VIRGINIA

4. If reimbursement rates are not increased, what will the specific effects be in your State? If they are, will participation decrease?

Programs cannot operate at a deficit. There will be a decrease in the quantity and variety of foods served. Some schools may be forced to go off the program. It is recognized each time there is an increase in the price of lunch or breakfast there is a decrease in participation. The higher the increase, the greater the drop in participation. Increased reimburse-

ment will help to keep price increases at a minimum.

TEXAS

4. If reimbursement rates are not increased to offset the increase of food and labor for the various school districts, we believe it will have a negative effect upon all Child Nutrition Programs and eventually could cause some districts to discontinue the Program. We anticipate that the increase in the price of lunches to students will cause a decrease in participation.

Mr. ALLEN. I thank the Senator from South Dakota. The committee accepted the validity of this amendment.

I am willing to yield back the remainder of my time.

Mr. CURTIS. Mr. President, I yield back my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. ALLEN. Mr. President, I believe there is another amendment.

Mr. HUMPHREY. Mr. President, there is an amendment on the National Advisory Council.

The PRESIDING OFFICER. The Chair is advised that it was included in the last amendment.

Mr. HUMPHREY. Mr. President, then I believe that does complete action on all the committee amendments.

Mr. CASE. Mr. President, today I am submitting, along with Senators HUMPHREY, McGOVERN, and CLARK, three amendments to the National School Lunch Act. If adopted, these three amendments will have the effect of placing a price ceiling on school lunches so that children will not have to pay more for lunch, and will also expand coverage of the lunch program to working families.

The first amendment raises the basic subsidy on all school lunches, whether paid for, available on a reduced price basis, or offered free to needy children. The basic subsidy has been only 8 cents per lunch, an amount insufficient to cover the costs of rapidly rising food prices. School food authorities tell us that they are now unable to make firm contracts for food because of the fluctuation of prices. Many communities already have raised lunch prices and others, in response to the crisis, have reduced the quality of the lunch served.

Worst of all, the essential protein quality of the lunch has been curtailed and substitutes, including soybean meal, now replace meat, poultry, and fish.

It is tragic that the primary children's feeding program for the Nation—the national school lunch program—is being curtailed at this time.

Raising the basic subsidy to a credible level is, at this time, not inflationary. The billions of dollars in farm subsidies paid out in the past will not be needed this year.

The second amendment we offer is designed to expand the availability of reduced price lunches to the children of working families. It is a modest increase—allowing participation by families with children earning less than $7,200. The cost to the treasury is minimal—but the impact will be substantial. It will reduce the burden of price increases and inflation shouldered by families who are not on welfare and who receive little in the way of government assistance. By adopting our amendment some help will be provided.

Our third amendment seeks to head off future crises in the lunch program by implementing a cost-of-living escalator clause. Under this amendment, as food prices increase the basic subsidy for the school lunch program will likewise increase. It makes sense to protect the lunch program in the same manner the Congress has adopted a cost of living escalator clause in the social security program.

Mr. President, if these amendments are adopted we will assure the continuation of the lunch program and, more than that, we will effectively place an essential and effective price ceiling on the lunch program. So that children will not have to pay more for their lunches.

I urge adoption of these amendments.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HUMPHREY. Mr. President, I call up my amendment No. 534 on behalf of myself and Senators McGOVERN, CLARK, CASE, MONDALE, BAYH, BIDEN, and the other cosponsors which the Senator from South Dakota listed this morning and asked unanimous consent that they be listed as cosponsors.

This amendment essentially would accomplish three objectives:

First, it would increase section 4 general assistance funding from the 10 cents per meal now provided for in H.R. 9639 to 12 cents per meal;

Second, it would provide for an automatic adjustment in Federal reimbursement assistance rates in future years relating to both the school lunch and breakfast programs; and

Third, it would allow schools to go 75 percent over the income guidelines in determining which students may receive "reduced price" lunches.

Mr. President, on March 1 of this year I introduced S. 1063, a bill containing many amendments to our national school lunch and child nutrition statutes which are not contained in this legislation before us here today. In addition to the provisions contained in S. 1063, I offered some additional amendments to these basic statutes when I testified before Senator ALLEN's subcommittee on September 13, 1973. Many of the amendments contained in S. 1063 and those I offered on September 13 which are not now contained in H.R. 9639 were supported both by the U.S. Department of Agriculture and by many others who testified before Senator ALLEN's subcommittee. However, during our full committee markup on this legislation, a plea was made by Senator ALLEN and other members of the Committee on Agriculture that we should limit modifications to our school lunch laws at this particular time in order to expedite meeting the escalated financial burdens now facing our Nation's schools relating to basic reimbursement rates, an approach we have now repeated each year for the past 3 years.

While time circumstances argue in favor of Congress moving promptly in this regard, I think it is unfortunate that we must again forego addressing ourselves to a number of important issues relating to these programs because of last minute action.

While I am willing to again cooperate in limiting consideration of many of these issues, I nonetheless feel compelled to insist that consideration be given today to at least some of these issues, namely those three contained in amendment 534.

The increase provided for H.R. 9639 for section 4 reimbursement from the current 8 cents per meal to 10 cents per meal is not adequate in my judgement to maintain the integrity of our national commitment regarding the nutritional objectives of this program. Even the increase to 12 cents per meal provided for in amendment 534 will not cover all of the increased costs now being borne by State and local school jurisdictions and by students, but it will materially help closing the inflationary cost gap they are now experiencing.

The Select Committee on Nutrition and Human Needs recently conducted a survey among the States concerning these increased costs and found that something closer to a 15 cent section 4 reimbursement figure is actually required to close this gap. Therefore increasing the section 4 reimbursement rate to 12 cents per meal will still require increased costs for most State and local school jurisdictions and for students.

Also, in considering these rates, we must keep in mind the fact that any increase in price for students purchasing school lunches usually means a drop in participation in the program. Studies show that for every 1 cent increase in lunch costs to students you get a 1 percent drop-off in participation. Therefore, in view of facts, I urge that we provide at least a 12 cent per meal section 4 reimbursement rate.

The second provision contained in amendment 534 would provide for an automatic adjustment in Federal reimbursement rates for our school lunch and school breakfast programs beginning with the next school year, namely July 1, 1974. The need for this important provision to me is obvious. As I stated before, each year for the past 3 years Congress has had to address itself to adjusting these rates because the administration—although they have the administrative authority to do so—have refused to make these adjustments. The provisions in amendment 534 would require adjusting these rates annually based upon the wholesale price index and the average hourly wages of employees employed in such food services. Having these provisions in law would mean that Congress would not have to be called upon each year at the last minute to adjust them. It would mean that schools could more appropriately plan and budget for these programs in future years instead of wondering and guessing what adjustments that the Executive or the Congress may make—usually after the school year already has begun. Similar automatic adjustment features are now provided in our Nation's social security laws, food stamp laws, and now even in our farm

program laws. I think it only fair and good management that we now do the same with respect to these school feeding programs for our Nation's children.

The last provision in amendment 534 merely makes the reduced-price provision of the school lunch more attractive to offer. It provides that schools may go to 75 percent, instead of the current 50 percent, over the income guidelines in offering the reduced priced program to students whose income is just over those applicable for free lunches. Only about 1 percent of students are now participating in the reduced price program. By going to 75 percent, we anticipate that participation in this program may go to 2 percent, we anticipate that participation in this program may go to 2 percent with only minimum additional cost. With the increases in cost for school lunches we are now experiencing many of these students whose income is just over that which would otherwise qualify them for a free lunch, will likely be the first to drop out of the program altogether, because they can least afford to pay the full bill that would be required of them.

In short, Mr. President, the provisions in amendment 534 are needed and modest adjustments which I hope and urge the Congress will adopt. We must also keep in mind that we must take this bill to conference with the other body and I would hope that the Senate would give us something to bargain with in this regard. Mr. President, I urge the adoption of these amendments.

The PRESIDING OFFICER (Mr. HART). Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. HUMPHREY. Mr. President, I ask unanimous consent that they be considered en bloc.

Mr. ALLEN. Mr. President, I reserve the right to object. I might later agree on the last two. However, I do object.

The PRESIDING OFFICER. The Chair is advised that the amendment is not in order unless it is considered en bloc.

Mr. ALLEN. I object to considering them en bloc.

The PRESIDING OFFICER. The Chair is advised that the first two lines of the amendment are in order. The clerk will report the amendment.

Mr. HUMPHREY. Just a moment. I would like more information. I have never heard that an amendment at the desk is not in order. It is germane.

The PRESIDING OFFICER. The Chair is advised that the amendment is, in effect, three amendments.

Mr. HUMPHREY. The amendment is one amendment, and it can be divided.

The PRESIDING OFFICER. The Chair is advised that the amendment relates to three different sections of the bill.

Mr. HUMPHREY. I understand that. I wrote it.

The PRESIDING OFFICER. Unless unanimous consent is given to proceed to the consideration of the amendments en bloc, the only part of the amendment that would be in order would be the first part, as the Chair has indicated.

Mr. HUMPHREY. The Chair is ruling that we must proceed to consider one at a time.

The PRESIDING OFFICER. The Senator from Minnesota is correct.

Mr. HUMPHREY. All right. We will proceed first with the first part of the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

On page 1, line 8, insert the following: "12 cents per lunch" in lieu of "10 cents per lunch".

Mr. HUMPHREY. Mr. President, how much time do we have on each amendment?

The PRESIDING OFFICER. Thirty minutes, the time to be equally divided.

Mr. HUMPHREY. I will take just a very few minutes.

This amendment does what the study that has been made by the Select Committee on Nutrition recommends, as well as what the testimony before the committee indicates needs to be done.

There is no doubt that the increase in the committee bill as passed by the House and subsequently in the Committee on Agriculture and Forestry—namely, to increase section 4 funds from 8 to 10 cents—is helpful. However, I would remind the Senate that food costs have gone up rapidly and in some areas they have gone up even more than in other places.

Mr. President, if we are to have any kind of balanced program at all, we must have the necessary funds.

The argument is that this could all be taken care of by the people themselves, by the children who come to school, or it could be taken care by more effort at the local or State level.

Earlier today I indicated part of the problem at the local and State levels. Those budgets are already set. The legislatures will not be called back into session for this one item. The school districts of America are very tight already.

Last year, as I recall, we increased the allotment under section 4 to 8 cents from 6 cents. That was a very modest increase in light of what had happened to food costs. However, most of the food costs have gone up since that time.

We all know that the food costs have gone up between 20 and 30 percent in 1 year, and 6 percent in the month of August. We all know that school budgets are tight and that school lunch programs are closing down because of the increased costs. We are simply asking that this amount be changed from 10 to 12 cents.

This is not going to bankrupt the Government. First of all, one of the reasons we have to raise it is because agricultural prices are up. The farmers deserve to get a fair price.

Mr. President, let me say for the RECORD at this time that the Department of Agriculture this year will spend very little on so-called farm subsidies and very little next year. All agricultural prices are above what we call the target prices. So, we will be saving a couple of billion dollars on agricultural appropriations because we have good farm prices, and we will add a few more million dollars to the school lunch program in order to compensate for the sharp rise in food costs to the commissaries, to the school lunch authorities, and to those who prepare the school lunch program.

This is a good tradeoff. On the one hand, we have a couple of billions of dollars on farm subsidies because the farm prices are up. And, as a result, the school lunch costs have skyrocketed. We are asking for another $85 million extra.

I just finished reading the testimony of the Senator from Missouri (Mr. SYMINGTON) before the Committee on Defense Appropriations. That testimony reveals that we have had over $20 billion in prototype weapons systems that have not worked, had never been used, and which required canceling.

My gracious, the interest on the public debt is running considerably higher. No one seems to be complaining about that. They complain about the public debt. However, no one complains about the rape of the Treasury with the unbelievable rise in interest rates which will cost this Government $4 billion additional dollars. I do not know who is going to get that money. I am not. And I do not think that any of the school kids are going to get that $4 billion. However, someone will get it.

Here we are talking about a little money for a school district where the taxpayers live in order to provide adequate school lunches. Let me say that I know that the taxpayer has to pay the bill. However, he is already paying billions of dollars extra in family food costs.

I know that the farmers are going to be able to pay some taxes this year because they are getting revenue, they are getting income. And the modest amount of increase is hardly worth arguing about.

It seems to me to be so patently evident that we ought to proceed.

I know that the bill will have to go to conference because there are amendments. This will not constitute any increase that will be of undue proportion. I do not think that any President would veto a bill that would provide an extra penny or so for school lunches. I do not think that President Nixon would do that. I give him the benefit of the doubt.

Studies show that for every 1-cent increase to school students we get a 1-percent dropoff in participation. The tradeoff here is good because farm prices are way up and farm income is way up and farm tax receipts are way up. This has meant that the Department of Agriculture will spend a couple billion dollars less this year than had been anticipated. It also means that the budget will have an immense savings because of the increase in farm prices. The Federal Treasury will have hundreds of millions of dollars coming in by way of increased tax revenues because the farmers are making money. However, as a result of all of this, the food costs have gone up 30 percent this year and 6 percent just last month.

If we want a school lunch program, we have to pay for it. Let us not say that the local governments can do it better. They are already doing most of it. The Federal Government is not paying for it all. The Federal Government will be contributing 12 cents in section 4 assistance. It also will be contributing 7 cents in commodities. That is 19 cents. It costs over 70 cents to make a lunch. That does not

come from Santa Claus. That is paid by the State and local folks.

When it comes to free lunches, that is another matter. Even there, only 45 cents is provided in the bill for the free lunch program.

We are not exactly going down the drain fiscally. I would hope that the Senate would support the amendment just offered on behalf of a number of Senators which is reasonably and urgently needed.

Mr. JAVITS. Mr. President, will the Senator yield momentarily to me?

Mr. HUMPHREY. Mr. President, I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I would not seek to intervene were it not for my experience in the field of education and my service on the Select Committee on Nutrition of the Senator from South Dakota.

From the point of view of education, I think that everyone ought to know that it is as absolutely essential that every child be fed properly as it is that he have the proper books.

Unless we have the necessary Federal aid provided by this bill and these amendments there will be millions of children who are under par in this regard.

We are not giving them the educational system which we wish to give them and which they deserve as Americans; for me that is the most eloquent reason, in addition to the other persuasive reasons stated by the Senator from Minnesota and the Senator from South Dakota, to vote for the amendments which the Senator wishes approved.

As for H.R. 9639, there can be no question of the need for this bill. It is unanimously approved by the entire Agriculture Committee in near record time. I commend my colleagues on that committee for such expenditious action.

The committee has amply demonstrated and documented the need for increased funding. Food costs have increased 28 percent since last year; unless we act now many needy children will have to forego the Federal child nutrition programs that are so vital to their health and well-being.

The reimbursements provided for in the bill are the minimum that we can deem acceptable. They do not make up for the increased costs that the programs' beneficiaries have experienced over the past year. Thus, even passage of this bill, as reported, would at best be marking time with increased costs.

It is for that reason, that I have joined to cosponsor the amendments to the bill proposed by Senators HUMPHREY, CASE, MCGOVERN, and CLARK. The first of those, which would increase the minimum reimbursement for lunches from 8 cents to 12 cents, rather that to 10 cents as reported, is necessary to insure continued participation in the program for all of those who so desperately need it. The costs of such an increase, when weighed against the need, are minimal. As has been said, we cannot balance the Federal budget on the backs of our needy children. They are least of all the group that can afford it.

The second amendment, which would provide for an escalator clause, is also a necessity. It is difficult to revise funding levels yearly. Only with an escalator clause can we insure that reimbursement levels continue to provide the support that we now deem necessary.

Finally, the income guidelines for the reduced price lunch program are plainly inadequate. At present, a family that earns $7,000 per year is ineligible. This is a gross injustice. The amendment calls for a modest but necessary increase to 75 percent above the poverty guidelines. Clearly, this does not permit participation by any family that can afford adequately to feed its children without the program. This amendment is essential to the working poor, it would be most unfortunate to discriminate against those that need the benefits of Federal school lunch programs the most and to relegate them to a situation worse than that of the Nation's hard-core poor. I urge my colleagues to provide the necessary funding so that these families of the working poor may participate in reduced price lunch programs.

Mr. President, the bill and the amendments are equally necessary. They will continue one of the most successful of all Federal programs, programs where the States and localities already pay their fair share. I urge passage of H.R. 9639 together with all three of the Humphrey amendments.

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

Mr. HUMPHREY. I yield to the Senator from South Dakota, the principal proponent of this measure, such time as he may require.

Mr. MCGOVERN. Mr. President, in addition to the strong participation the Senator from Minnesota and the Senator from New York have already made in behalf of this amendment, I would just like to add that the Select Committee on Nutrition and Human Needs surveyed all the States as to their needs with regard to the school lunch program. Thirty of the States replied that the actual costs of the lunches in this school year are going to be anywhere from 5 to 10 cents per child higher than they were a year ago.

We are asking for a 4-cent increase in the amendment that the Senator from Minnesota (Mr. HUMPHREY) and I and others have introduced. We are still below the level of the actual cost increase.

I think it is very important for the Senate to recognize that there are many budgets that are under intense pressure today because of the increased cost of living, but none of those budgets is any more squeezed than the family food budget. Here is a way for Congress to do something to relieve some of that pressure. If every family that has a child in school, or one or more children in school, knows those children are going to get a hot lunch once a day, for which the Federal Government pays a reasonable part of the cost, at least that takes some of the anxiety off that family in knowing that the child will receive one good meal a day, no matter how high the cost of food may go.

There is another budget in this country that is under great pressure, and that is the average school budget. Certainly most of the school budgets in my State, and I think that is true with respect to school districts across this country, are under almost unprecedented pressure. The cost, not only of food but of everything else, has gone up. Instead of shifting that increased cost to the school lunch programs of these school districts that are already laboring under unprecedented pressures, I think it is a mark of prudence on the part of Congress to help pick up a little greater share of these increasing costs of the school lunch programs.

There is no better program that this Government operates than the school lunch program. Dollar for dollar, it probably returns more in the way of health, improved education, and improved development of our children than anything else we do.

So I hope we will not be penny-wise and pound-foolish on this program, and that we will approve the amendment that is now pending.

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

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

Mr. FULBRIGHT. I wish to join the Senator from South Dakota in this respect. It really surprises me that anyone opposes or wishes to restrict this program. It has had a long history, and I was just thinking of the irony of the fact that the late Senator Russell, who was such a stalwart, as chairman of the Committee on Armed Services, in behalf of the Defense Department, was also a champion of this program, and the fact that consideration of this measure should occur in the midst of the consideration of appropriations for the Defense Department, with its incredibly expensive programs, and yet we seem to stumble over such a small program as this, seems to be representative of the conflicts we face these days.

If the sense of Congress is so distorted that it does not recognize the significance of feeding children, and especially the poor children of this country, I must say my hope for the future is very slight.

I want to take this occasion to read one typical passage. I have received several letters from schools of my State, most of them from the smaller communities, where this program obviously has the greatest importance. This letter is from the superintendent of the Cotton Plant Public Schools. Cotton Plant is a relatively small town in the mideastern part of Arkansas. I shall read only a part of it.

This is dated September 18. It says:

> Cotton Plant is a small district composed mostly of impoverished blacks. Something like 90% of our students meet the federal guidelines for free lunches. Because we have such a large proportion of free lunches, we cannot solve our lunch problem by raising the price of the luncheon, as can the larger and more affluent districts.
>
> The school lunch programs have lived off of the government's purchasing of commodities for price support; since this is gone, we are having to purchase foods which always before have been provided us. An important facet of the lunch program is milk; we are presently having to pay 8½ per half pint and expecting this to rise next semester.
>
> I wonder if Congress really understands

that the school lunch program is going down the drain unless something is done immediately.

We need to get the following things undertaken now if we are to be able to continue to operate a lunch program:

1. A much larger reimbursement for milk served to students.

2. Cash payments of a substantial nature to lunchrooms to replace commodities which are no longer available.

3. A larger reimbursement for meals served free to students to reflect the higher prices of groceries.

As I say, that is only a typical letter. I have some from West Memphis and other areas of my State.

The need is uneven, of course. Some communities are quite capable of dealing with these situations, as in the very rich suburban communities of our large cities, but all over this country there are many small communities such as this which simply cannot cope with the kind of inflated prices we have today and continue the school lunch programs.

But over and above that question—and I shall not dwell on the details; the Senator from Minnesota and the Senator from South Dakota have already gone into that—it is such a reflection upon the sense of values of Congress as to what is important to this country to let a program of this kind, of which the whole program, I suppose, does not cost more than one B–1 bomber——

Mr. HUMPHREY. Just about the same.

Mr. FULBRIGHT. It is incredible that in weighing these things in balance, because of the budget, we could choose the bomber over the school lunch program, involving hundreds of thousands of children. It is unbelievable to me that we would not take action in helping this program.

Mr. HUMPHREY. Just let me say——

The PRESIDING OFFICER. The Senator's available 10 minutes have expired.

Mr. HUMPHREY. My time is gone.

Mr. ALLEN. I will yield the Senator an additional minute if he is not through.

Mr. HUMPHREY. I thank the Senator. I just wanted to make an observation. I just wanted to note that for fiscal year 1972, the total of Federal expenditures for these programs, including all surplus commodities, the school milk program, breakfasts, and everything you can toss in, was $1.256 billion, in comparison to which the State, local governments, and students put in $1.661 billion. So the local governments and students are paying their share.

And might I add, one Trident submarine would cost us more than the entire food program for the school children of the United States of America.

Mr. FULBRIGHT. From all sources.

Mr. HUMPHREY. From all sources, that is correct. One sub. I think that speaks for itself.

Mr. ALLEN. Mr. President, I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I think it is well that we again look at the figures for the school lunch and child nutrition program.

In 1968 the total expenditures were $500 million. The budget request for this year is $1.5 billion—increased threefold. Now the House has sent us a bill that will increase expenditures by $149 million. The Senate committee approved the House increases and also added amendments increasing the cost by $108 million. The pending amendment would add an additional $83.5 million.

We should keep in mind that if the plan is adopted, the Senate will have voted to increase the Federal contribution for meals by 50 percent, in spite of the fact that we increased it three times in the 92d Congress and once in the 93d. Also this is a program for all schools and all pupils in all communities. That is what this amendment is about. It is not confined to poor school districts. It is not confined to impoverished children. It is not confined to children who come from financially deprived homes. This is an increase in Federal expenditures for the whole program so that the men and women who work, who pay their taxes, are called upon to support this increase that will increase the Federal contribution for the wealthiest districts in the country and for all children including the middle class, the well-to-do, and the wealthy.

It seems to me that the Senate committee has gone as far as it should in increasing this amount if it is to be justified by an increase in the cost of food to operate the program.

I hope that the Senate will reject the amendment.

Mr. YOUNG. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. YOUNG. What was that total figure the Senator gave as the cost for the school lunch program?

Mr. CURTIS. For school lunches and child nutrition it is now $1½ billion.

Mr. YOUNG. Except for a part of the bill, we are legislating and appropriating on this bill and it permits no further consideration by the Appropriations Committee. We are taking the funds out of section 32 funds, so there is no further appropriating needed. Presently there is more than $100 billion in Federal expenditures over which the Appropriation Committees of Congress have no jurisdiction whatever, so that when we are talking about holding down the budget in this case, we are increasing it because there is no further appropriation necessary, as I understand it.

Mr. CURTIS. I thank the Senator for his contribution. There will be no opportunity for the Appropriations Committee to look it over.

The PRESIDING OFFICER (Mr. JOHNSTON). The time of the Senator from Nebraska has expired.

Mr. ALLEN. Mr. President, I yield myself such time as I may need.

Mr. President, the basic elements of the three sections of the amendment originally offered en bloc by my distinguished colleagues have been studied carefully by the Committee on Agriculture and Forestry. All were rejected.

That amendment would:

First, increase reimbursement for all school lunches from 8 cents per lunch to 12 cents per lunch rather than the 10 cents provided in the committee bill;

Second, provide an escalator clause that would increase the Federal reimbursement for general cash assistance, free and reduced price assistance and school breakfasts each year to reflect the increased cost of operating a school lunch and school breakfast program; and

Third, authorize States to provide reduced price lunches for children from families having income 75 percent greater than the income poverty guidelines rather than 50 percent greater, as in present law.

Let me take each of these elements separately and explain why the committee acted as it did:

In regard to the issue of 10 cents per meal versus 12 cents per meal, the committee was on the horns of a dilemma. We are more sensitive to escalating food costs than most.

We are also aware that as farmers increase their income, so they no longer have to rely on Federal crop subsidies, we will have to transfer some of our efforts to insure that programs such as the one we are discussing today do not suffer.

But we are also aware that Federal resources are finite. The Federal Treasury is not a bottomless barrel of money. We are also aware that we must exercise budgetary caution and restraint in order to get a handle on the inflation that is crippling this country.

For fiscal year 1974, the measure that our committee offers today is approximately $217.1 million more than what was in the administration budget request. For fiscal year 1975, the committee bill would add another $40 million to the cost of child nutrition programs, for a total added cost of $257.1 million. But we felt that given increasing food costs, it was imperative that we adopt this measure to keep the school nutrition program viable.

My worthy opponents tell you that they are only talking about 2 pennies per meal—just 2 more cents. What you must know is what they are talking about is much greater in real terms, because the 2 pennies they are talking about—which on a per meal basis will not really mean very much—are going to cost another $83.5 million over and above what the committee has authorized.

The House has approved 10 cents per meal. So should we.

The Members of this body should not have to deal with this problem every year. It should be handled administratively. But each year it has been necessary for us to come back to this floor to force the administration to keep these nutrition programs operating properly.

That is why the escalator clause in the amendment which we are considering is so appealing. It would keep the Congress from having to put out this fire every year as school opens.

But as I see it, the escalator clause has two major defects built into it.

First, let me ask you to think about the Federal budget for a moment. Fully half of it is taken up with fixed costs that no committee of Congress can control—things such as social security and veterans' pensions. If we adopt this amend-

ment today we will be adding one more uncontrollable cost that will impinge on our ability to manage Federal spending in a responsible way.

Second, this escalator would only affect Federal performance and Federal spending as it concerns this program. What about State and local responsibility? Why not write in an escalator clause that would insure that State and local governments share in the escalating costs for this program? Why is it that all of society's problems must be resolved here in Washington?

Presently, the Federal Government is contributing 8 cents for all meals served under the school lunch program. The committee bill increases that amount to 10 cents. The committee bill also guarantees that the schools will receive 7 cents worth of donated commodities for each meal served or additional cash in lieu of commodities.

Thus, the committee bill guarantees that the Nation's schools will receive at least 17 cents for each meal served under the national school lunch program.

In addition, the schools will receive an additional 45 cents for each free meal served and an additional 35 cents for each reduced-price meal served.

When we add the additional reimbursement received for free and reduced-price meals to the regular reimbursement of 17 cents, we have a total of 62 cents for free meals and 52 cents for reduced-price meals.

Free meals are roughly one-third of total meals served. Reduced-price meals are only 1 percent of total meals. If the schools need additional funds for free meals, they can utilize part of the funds they receive for reimbursement of lunches of children who can afford to pay. They can utilize part of the 17 cents per meal that all schools receive for paying lunches.

Despite the problems we have had getting the administration to implement these nutrition programs, the Federal Government has done its job. If we here today force an escalator clause on the Federal Government—no matter what course that escalator begins to take—we will simply increase the inequities between Federal and State participation. If the State governments are collecting more tax money than they can spend, then let them spend it on their most valuable resources, their children. But we cannot continually turn to the Federal well every time there is trouble.

However, now is no time to add an escalator clause for Federal participation or an escalator clause for State and local participation. To consider such measures would hopelessly complicate the emergency legislation and deny our schools the help they need immediately. The relative contribution of Federal, State, and local government is a matter that should be the subject of thorough hearings.

Finally, the third aspect of this amendment dealing with reduced-price meals has a laudatory goal—to increase participation in the reduced-price portion of the program. But again there is no telling what the costs involved would be.

Here is the situation. Thirty-five percent of all the meals served under this program are free. That is right. More than one-third of the children who are participating pay nothing. However, only 1 percent of the meals served are under the reduced-price plan.

It is evident that at the local level where the program is administered, the school officials do not wish to be burdened with the administrative problems of a reduced-price program.

I admire my colleagues greatly, and also admire their motives in bringing this amendment to the floor, but the committee has increased the proposed cost of this program by $217.1 million by its action. The further increases of over $83.5 millon called for under this amendment would be fiscally irresponsible no matter how worthy their intent. These increases would create a strong likelihood of a Presidential veto, thus denying our school districts any immediate help in their financial crisis. I ask for the defeat of the amendment.

Now, Mr. President, the Senator from Minnesota has talked about this being such a small addition, of 2 cents. It amounts to $83,500,000, this 2 cents that he is talking about.

Actually, the issue is not whether it is an additional 2 cents, because the House has already put 2 cents on at the cost of $83,500,000 and the Senate committee has agreed to that. The distinguished Senator mentioned the amount the States are paying. He gave that figure as being $1,661 million. Actually, in 1972, the States contributed only $335 million and in 1973 it is estimated they will only contribute $376 million as opposed to the $1,510 million by the Federal Government.

Mr. HUMPHREY. If the Senator will yield, just for the RECORD, I am merely pointing out that the State and local governments and the student participants in the program pay more than the Federal assistance in the program.

Mr. ALLEN. Yes.

Mr. HUMPHREY. That is a factual statement. There is also the formula that requires, when we increase Federal assistance, that the State also increase its share proportionately.

Mr. ALLEN. I thank the distinguished Senator from Minnesota. He apparently overlooks the fact that as the bill comes to us from the committee, it increases the budget $217 million. The administration has already increased the budget request by approximately $120 million, and then we add the $217 million that the committee has added to it, the House and the committee, which gets the amount up to $335 million additional to the budget as submitted.

So it is not just a matter of 2 cents or $83.5 million. It has already increased the budget by $335 million. If the amendment suggested by the Senator from Minnesota is added, that would raise it up to around $400 million in increases.

We are all for schoolchildren. I do not suppose there is anyone who wants to vote against anything for schoolchildren. I yield to no man in my love for schoolchildren and my desire to do something for them. I believe that this program is a great program, but I also feel that we can make the mistake of reaching out and seeking more than is justified and more than will be approved by the President. I also feel that the additions made by the committee, and those which have been tacked on by the House—we have already approved three amendments here by the distinguished Senator from Minnesota and the distinguished Senator from South Dakota, which will add $1 million to the bill. Now they are seeking to add still more.

Mr. FULBRIGHT. Mr. President, will the Senator from Alabama yield for a question?

Mr. ALLEN. On whose time? I do not have much time.

Mr. FULBRIGHT. I do not have any, but I wanted to ask the question, Did the committee take into consideration the recent very dramatic rise in the cost of food which occurred during the months of July and August this year?

Mr. ALLEN. Yes, sir, it did. That is the reason it added these 2 cents. I might point out that the New York Times reported on Friday that the cost of beef cattle has gone down from 60 cents a pound on the hoof to 40 cents a pound on the hoof. Also there has been a comfortable drop in the price of hogs. I feel that it——

Mr. FULBRIGHT. What about milk?

Mr. ALLEN. The 10-cent figure——

Mr. FULBRIGHT. And milk?

Mr. ALLEN. Milk is provided.

Mr. FULBRIGHT. Milk has gone down?

Mr. ALLEN. I do not believe that the price of milk has gone down.

Mr. FULBRIGHT. I do not believe there are many beefsteaks around——

Mr. ALLEN. Well, I do not want to argue with the distinguished Senator because we have only 15 minutes here and I would rather make my own argument.

Mr. President, I should like to point out that when we talk about the 8 cents, or the 10 cents, or the 12 cents, that is only part of the program, the 8 cents, the 10 cents, or the 12 cents.

The 10 cents by the committee, which is a 25-percent raise, would be paid to all children who pay for a lunch. Two-thirds of them pay for their own lunches.

If we take the 10-cent subsidy for every lunch for every schoolchild and the 7-cent subsidy in commodities or cash we get 17 cents for every lunch. Since only one-third is on the free lunch basis, that figure would be trebled—51 cents—if it is all used for the free lunch. Add that to the 45 cents for each free lunch and we would have the Federal Government paying 96 cents for each child. That is enough for the Federal Government to pay when the State and local governments and the private contributions are added to that. So, let us not relieve the local government of all responsibility. We have pretty well relieved them of all rights. Let us not relieve them of responsibilities.

So I feel that the House action of raising this to 10 cents, which has been approved by the committee, continuing the 7 cents, the commodity subsidy, and

raising the free lunches to 45 cents will be adequate. Take that and take the second part of the Senator's amendment, the escalator, and it would be a good bill, in the judgment of the Senator from Alabama. I do not believe we need the raise to 12 cents and the escalator added to that. I believe we could get through the conference the 10 cents with the escalator. I do not believe we could get the 12 cents.

I reserve the remainder of my time.

Mr. CURTIS. Mr. President, I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, the distinguished Senator from Minnesota (Mr. HUMPHREY) is one of the greatest humanitarians I have ever known. When it comes to a subject such as this, he has a heart as big as a washtub. He has been very helpful in all these programs.

In this case, I think the committee has gone a long way—in fact, we may be inviting a veto now. I think the committee bill is very fair, and I, for one, am going to support the committee position. This is not easy for me as I have long been an ardent supporter of the school lunch program.

Mr. McGOVERN. Mr. President, I would like to speak on behalf of amendment No. 534 introduced by Senators HUMPHREY, CASE, CLARK, HART, HARTKE, KENNEDY, STEVENSON, CRANSTON, and myself.

Before doing that, however, I wish to compliment Senator ALLEN and the Agriculture Committee for the efforts they have made to bring this emergency school lunch legislation to the floor of the Senate.

Senator ALLEN and the chairman of the Agriculture Committee, recognizing the financial crunch now being faced by so many school districts around the country, have produced a bill for the Senate to consider that goes a long way toward solving the immediate problem.

The committee bill raises the reimbursement for the lunches of paying children from 8 cents to 10 cents, for poor children from 40 cents to 45 cents, provides airtight language in the special milk program as well as extending and improving the special feeding program for pregnant women and children.

The amendment that I am offering today along with my fellow Senators is simply an attempt to meet the present financial crisis more squarely and hopefully to eliminate the need for this kind of emergency action next year.

We would increase the reimbursement for paying lunches from 8 cents to 12 cents. The 12-cents figure is amply supported by a survey of the States conducted by the staff of the Select Committee on Nutrition. This survey showed that in over 30 States the actual cost of lunches was going up 5 cents to 10 cents.

These figures, of course, were based on the cost of food as of late July and early August. The latest cost figures would seem to indicate that an even higher increases might be justified.

The chairman of the House committee, Congressman PERKINS, himself recognized this fact during the debate on the bill in the other body. Mr. PERKINS states that if he had been introducing the bill to meet the most current cost estimates that he would have been justified in seeking 12 cents instead of 10 cents. If the Senate approves the 12 cent figure, I think we have some reason to believe that we might find a sympathetic ear during conference committee session with the House.

Beyond the immediate reimbursement rate for section 4, I believe it is time, once and for all, to build into the school lunch and child nutrition programs an automatic means of dealing with changing costs from year to year. For this reason, we have included in amendment No. 543 a so-called escalator clause which, on an annual basis, would adjust the reimbursement rates for these programs in accordance with changing food and labor costs. This is a principle that we have now accepted in many other programs, including social security, farm payments, and food stamps. It makes only the most elementary sense to me to eliminate, by foresight, these annual crises that afflict our school districts and cause incredible administrative difficulties from year to year.

Finally, Mr. President, this amendment as suggested by Senator CASE would authorize the Secretary of Agriculture to raise the eligibility levels for reduced price lunches by 25 percent above current authorized levels. In effect, this means that we would be making children from families with incomes up to $7,300, rather than the current $6,300, eligible for reduced price lunches.

I believe this is an important improvement in the program because it would seek to alleviate some of the current difficulties facing many of our middle income families around the country in maintaining an adequate diet for their families. It would also recognize the eroding effect that inflation is having on the incomes of those families and it may keep hundreds of thousands of children from these families in the lunch program who would otherwise be forced to drop out. I, therefore, urge the Senate to vote in favor of amendment No. 534.

Mr. MUSKIE. Mr. President, the legislation before the Senate today, the National School Lunch and Child Nutrition Act Amendments of 1963 (H.R. 9639), would make many welcome changes in the school lunch and child nutrition programs, including increasing the basic Federal reimbursement for each school lunch from 8 cents to 10 cents. Yet the rampant inflation of food prices in recent months makes this reimbursement insufficient. To safeguard the ability of local school systems to provide reasonably priced lunches to schoolchildren, the Senate should adopt the amendment pending before us to increase further the reimbursement level this year.

The effect of food price increases on school lunch programs is well documented by statistics about the program in my own State of Maine. According to the Maine Department of Educational and Cultural Services, the cost of the average school lunch will be 6 cents higher this year than last year. It is unlikely that local communities in Maine will be able to provide additional funds to absorb these increases. Unless the Federal subsidy rises substantially, this cost increase will result either in cutbacks of the school lunch program, or in cost increases to the schoolchildren themselves. So the plain result would be that fewer children would be able to take advantage of the school lunch program.

We, in Maine, experienced last March a 5 cents per meal increase in the price of most school lunches. In view of that experience, the director of the Maine school nutrition program expects "a dramatic reduction in participation of paid meals" if the Federal subsidy is not adequately increased. The State program estimates that the base Federal reimbursement per lunch must be a minimum of 12 cents—the level established by the pending amendment—to avoid new sharp increases in prices.

Mr. President, we cannot afford to cut back our commitment to the sound nutrition of our schoolchildren. That commitment requires the adequate level of Federal school lunch reimbursement provided in the amendment before us.

Mr. COOK. Mr. President, again, we come together to deal with the perennial problems of the school food program. With the rising food prices and labor costs, school food directors in Kentucky are again reaffirming their determination to feed needy children. It is imperative that this Congress not render the school food programs ineffectual by failing to meet the responsibility to fulfill the critical need for greater subsidy for food programs.

Our efforts should be directed toward not only maintaining the status quo, but to maximize the school food program participation. H.R. 9639, introduced by my colleague, Congressman PERKINS, provides solid support for the existing school lunch program. I support updating Federal subsidy for school lunch from 8 cents to 10 cents, and updating Federal subsidy for the total cost of a school lunch from 40 cents to 45 cents.

During the 1973 August recess, I met with Miss Norma North, consultant, division of school lunch, Owensboro, Ky., Mrs. Jim Wallace, consultant, division of school lunch, Simpsonville, Ky., Miss Martine Collier, consultant, division of school lunch, Jefferson County, Ky., Mrs. Jane Bailey, director, school lunch program, Shelby, Oldham, Grayson Counties, Ky., Sister Ann Bell, director school lunch, Louisville Diocese, Kentucky, Mrs. Hannah Mather, Jefferson County coordinator school food service, Louisville, Ky., Mrs. Maxine Preuett, director, school food service, Oldham County, LaGrange, Ky., Mrs. Helen Underwood, director Bullitt County, Shepherdsville, Ky. These directors have provided pertinent information concerning their program incomes and their needs for 1974. Therefore, Mr. President, I ask unanimous consent that this information be included in the RECORD.

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

BULLITT COUNTY SCHOOLS

Item	Bid 1972–73	Bid 1973–74	1972–73 cost per pound serving or pound	1973–74 cost per pound serving or pound
Art. I—Staple and dry products:				
Baking powder	2.25 1 No. 10	8.29 4 No. 10	2.25 1 No. 10	2.07 1 No. 10.
Cereals:				
(a) Sugar Frosted Flakes, 48 servings.	3.22	3.35	.0675	.069 s.
(b) Sugar Pops				
(c) Fruit Loops				
(d) Cocoa Crispies				
(e) Captain Kangaroo				
(f) Sugar Smacks				
Crackers, saltine	3.58	3.64		
Macaroni, 460 servings, 20 lbs	3.19	3.59	.0069 s	.0078 s.
Onions, chopped	20.18	18.63 30 lbs		
Potatoes:				
(a) Instant, without milk	11.49	12.48		
(b) Flakes, Idaho, bags	7.43	10.27		
Salt, Iodized: 25 lb:				
(a) 50 lb bag	1.42	2.29	.28 lb	.45 lb.
(b) 24/26 oz boxes	2.08	2.83	.086 box	.117 box.
Spaghetti, 360 servings 20 lb	3.19	3.59	.008 s	.009 s.
Sugar, cane, white, 100 lb	13.63	15.46	.136 lb	.154 lb.
Sugar, light brown, No. 8	3.75 25 lbs	9.25 50 lbs	.15 lb	.185 lb.
Sugar, powdered	3.85 25 lbs	9.50 50 lbs	.154 lb	.19 lb.
Bleach, 6/1 gal	2.19	2.47	.365 gal	.411 gal.
Cups, 5 oz water, 2,500	17.75	18.17	.0072 s	.0076 s.
Foil wrap, .001, 24 x 1,000	18.47	18.45		
Napkins, 10,000	9.30	7.87	.0009 s	.0007 s.
Souffle cups, 5,000	17.75	14.89	.0035 s	.0029 s.
Straws, 25,000	9.99	9.99	.0003 st	.0003 st.
Straws, separately wrapped, 12,500.	10.70	10.70	.0008 st	.0008 st.
Applesauce, 150 servings	5.39	7.03	.035 s	.047 s.
Beans, green, 144 servings	4.95	6.44	.034 s	.044 s.
Beans, red kidney, 150 servings.	4.65	4.55	.031 s	.03 s.
Pork and beans, 150 servings	4.75	5.30	.031 s	.035 s.
Coleslaw dressing, 1,024 servings.	8.40	9.07	.008 s	.009 s.
Corn, whole kernel, 150 servings.	5.59	6.33	.037 s	.042 s.
Fruit cocktail, 150 servings	9.28	9.94	.061 s	.066 s.
Jelly, assorted fruit, 200 servings.	2.31	2.30	.011 s	.01 s.
Juices:				
(a) Grape, 138	8.07	10.02	.058 s	.072 s.
(b) Pineapple, 138	4.20	4.15	.03 s	.03 s.
(c) Orange, 138	4.92	4.93	.035 s	.035 s.
(d) Tomato, 138	3.69	4.60	.026 s	.033 s.
Kale, chopped, 150	4.34	4.72	.028 s	.031 s.
Peaches, sliced, 150	7.64	8.33	.05 s	.056 s.
Peaches, halves, 150	5.35	8.33	.035 s	.056 s.
Peas, 150	6.47	16.59	.043 s	.043 s.
Tomato Paste	9.86	10.76	1.64 can	1.79 can.
Tomato ketchup	7.02	8.74	1.17 can	1.45 can.
Tomato ketchup (individual)	2.55	24.99		
Tuna fish, 174 servings	22.77	24.99	.128 s	.143 s.
Art. II–Frozen and refrigerated:				
Bacon, 600 slices	20.19	30.80	.033 sl	.051 sl.
Beans, lima, 168 servings	8.26	9.24 (12/2 ½ lbs.).	.049 s	.55 s.
Broccoli, 120 servings	6.70	8.06	.055 s	.067 s.
Cheese, American 240 slices 61 lbs.	27.60	34.32	.115 sl	.143 sl.
Cherries, 197 servings 30 lbs	16.39	7.73	.032 s	.039 s.
Orange juice, 300 servings	10.88	10.89	.0362 s	.0363 s.
Potatoes, French Fries 615	5.45	5.37	.181 lb	.179 lb.

JEFFERSON COUNTY SCHOOL FOOD SERVICE—1972–73 SCHOOL YEAR

We spent 97.8% of income leaving a 2.2% reserve earned.

We served 74.8%, 11,129,870 Meals, of Average Daily Participation. Had we not had the Government donated commodities and the money (which was allocated for commodities but not used) sent to us near the end of this year we would have ended the year in the red.

For 1973–74 school year:

Anticipated salary increase is approximately	$225,000
Anticipated increase in food (20%) is approximately	640,092
Anticipated increase in other (10%) is approximately	5,000
Conservative anticipated increases, total	870,092
Income on a 0.05 price raise for lunch (based on 11,129,870 meals)	556,649
Loss unless some help comes	313,433

SUMMARY OF EXPENSES OF OLDHAM COUNTY CAFETERIAS

	Actual cost per month	Proposed cost per month
Oldham County High School Cafeteria	$9,434.16	$10,529.11
Crestwood Elementary School Cafeteria	4,733.95	5,023.69
Liberty Elementary School Cafeteria	1,926.05	2,164.51
LaGrange Elementary School Cafeteria	5,117.56	5,860.84
Total	21,211.72	23,578.15

BULLITT COUNTY SCHOOLS, PRICE COMPARISON BETWEEN 1972–73 AND 1973–74 BIDS

Food on bid	1972–73 price	1973–74 price	Increase	Percent of increase
Milk ½ pt	0.067	0.0669	0.0062	9
Bread (loaf) bun 1 doz	.21	.25	.04	16
Ice cream (1 doz, 3 oz. cup)	.54	.58	.04	7
Donuts (1 doz.)	.40	.48	.08	16
Canned and frozen food on bid staples on bid (per case or unit)	433.16	461.32	38.16	8
EXAMPLES				
Bacon (500 slices)	22.99=0.045	30.80=0.060	0.01½	+25
Tuna fish (6/4 No. 2½ oz. case)	22.94	24.99		+8
Cheese 6/5# (pounds)	22.80=.76	34.32=1.14	.38	+33
Breakfast:				
Juice	.03	.04		
Ham	.06	.11		
Buttered toast	.01	.015		
Jelly	.01	.02		
Milk	.0607	.0669		
Labor and other	.05	.055		
Total	.2207	.3069		

[1] Per slice.

Note: Ham at Hardy's Super Market—1.79 lb. divided by 8 servings equals .22 per serving (2 oz.) September 1972 equals 0.15 per serving (2 oz.)—up 31 percent or 0.07 per serving; April 1973 equals 0.18 per serving.

SUMMARY SHEET ON INCOME

	Actual	Proposed 1973–74 at 35 cents	Proposed 1973–74 at 40 cents
Oldham County High School:			
Income	$7,125.62	$6,821.95	$7,615.20
Disbursements per month	9,434.16	10,529.11	10,529.11
Subtotal	2,308.54	3,707.16	2,913.91
Extra money	434.14		
Debit	1,874.40		
Crestwood Elementary School:			
Income	3,942.84	3,826.60	4,330.10
Disbursements per month	4,733.95	5,023.69	5,023.69
Subtotal	791.11	1,197.09	693.59
Extra money	276.52		
Debit	514.59		
LaGrange Elementary School:			
Income	4,678.36	4,332.00	4,902.00
Disbursements per month	117.56	5,860.84	5,860.84
Subtotal	3,439.20	1,528.84	958.84
Extra money	319.11		
Debit	120.09		
Liberty Elementary School:			
Income	1,576.04	1,480.10	1,674.85
Disbursements per month	1,926.05	2,164.51	2,164.51
Subtotal	350.01	684.41	489.66
Extra money	102.44		
Debit	247.57		

OLDHAM COUNTY HIGH SCHOOL CAFETERIA, ACTUAL INCOME 1972-73, PROPOSED INCOME 1973-74

	Actual income per month at 35 cents (1972-73)	Proposed income at 35 cents (1973-74)	Proposed income at 40 cents (1973-74)
Income from student and adult lunches per month	$5,459.65	$5,552.75	$6,346.00
Income from reimbursement per month on plates	1,871.88	751.50	751.50
Income from extra milk reimbursement	21.90	None	None
Total	7,353.43	6,304.25	7,097.50
Extra income from:			
State money	166.67	(1)	(1)
Commodity money	267.47	(1)	(1)
Average per month	434.14	(1)	(1)
Total income 1972-73 per month	7,787.57	(1)	(1)

[1] No guarantee of this extra money.

OLDHAM COUNTY HIGH SCHOOL CAFETERIA PROPOSED BUDGET 1973-74

Item	Actual cost per month	Proposed cost per month
Milk	$1,641.80	$1,881.80
Meat	2,192.57	2,521.50
Food	1,895.53	2,085.00
Labor	2,329.44	[1] 2,428.81
Equipment	219.71	240.00
Bread	259.12	298.00
Produce	335.98	672.00
Other (soap, cleaning supplies, maintenance of equipment, and office supplies)	560.01	400.00
Total	9,434.16	10,529.11

[1] Actual cost.

OLDHAM COUNTY HIGH SCHOOL—PLATE COST

Milk:	
Per student	.105
Per plate	.063
Meat	.145
Food (except produce)	.077
Fruits and vegetables	.022
Labor	.15
Equipment	.014
Other	.036
Bread	.016
Total Cost of Plate	.523
Average daily participation year 1972-1973	821

The PRESIDING OFFICER. The Senator from Alabama has 2 minutes remaining.

Mr. ALLEN. I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to part 1 of the amendment of the Senator from Minnesota. 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 Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Wyoming (Mr. MCGEE), the Senator from Utah (Mr. Moss), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Wyoming (Mr. MCGEE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that the Senator from Vermont (Mr. AIKEN), and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Kansas (Mr. PEARSON) is absent because of illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 52, nays 34, as follows:

[No. 410 Leg.]

YEAS—52

Abourezk	Fulbright	Muskie
Baker	Hart	Nelson
Bayh	Hathaway	Nunn
Beall	Hollings	Packwood
Bentsen	Hughes	Pastore
Bible	Humphrey	Pell
Biden	Inouye	Percy
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Robert C.	Johnston	Schweiker
Cannon	Kennedy	Stevens
Case	Magnuson	Stevenson
Church	Mansfield	Symington
Clark	Mathias	Tunney
Cook	McGovern	Weicker
Cranston	Metcalf	Williams
Eagleton	Mondale	
Fong	Montoya	

NAYS—34

Allen	Eastland	Roth
Bartlett	Ervin	Saxbe
Bennett	Fannin	Scott, Hugh
Brock	Goldwater	Scott, William L.
Buckley	Griffin	Sparkman
Byrd, Harry F., Jr.	Gurney	Stafford
Cotton	Hansen	Stennis
Curtis	Helms	Talmadge
Dole	Hruska	Thurmond
Domenici	McClellan	Tower
Dominick	McClure	Young
	McIntyre	

NOT VOTING—14

Aiken	Haskell	Moss
Bellmon	Hatfield	Pearson
Chiles	Huddleston	Ribicoff
Gravel	Long	Taft
Hartke	McGee	

So part 1 of Mr. HUMPHREY's amendment was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HUMPHREY. Mr. President, I call up the second part of my amendment which starts on page 3.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk reads as follows:

On page 3, line 6, insert new language.

The amendment is as follows:

On page 3, line 6, insert the following: "For fiscal years subsequent to the fiscal year beginning July 1, 1974, the Secretary shall prescribe reimbursement rates for lunches served under section 4 of the National School Lunch Act and section 11 of the National School Lunch Act, and for breakfasts served under section 4 of the Child Nutrition Act of 1966, as amended, that shall reflect changes in the cost of operating a school lunch and breakfast program under this Act by giving equal weight to changes in the wholesale prices of all foods and hourly wage rates for employees of eating places published by the Bureau of Labor Statistics of the Department of Labor.".

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. HUMPHREY. Mr. President, this provision can save Congress a great deal of trouble and time in the years ahead, and also it is genuinely merited. This provision provides for an automatic adjustment in Federal reimbursement rates for our school lunch and school breakfast programs in the next school year, beginning July 1, 1974. The adjustment would be made annually. It would be related to the cost of preparing lunch on the food and labor costs. The Federal assistance would be related to the base period we start with now and then go up or down according to these costs.

Each year for the past 3 years Congress has had to address itself to adjusting these rates because the administration refused to make these adjustments, even though it had authority to do so. These provisions of amendment No. 534 would require adjusting these rates annually based on the wholesale price index and the hourly wage adjustment of employees employed in such services.

That is the wholesale price index of the food which is required by the school lunch program. Having these provisions in law would mean Congress would not have to be called upon each year to adjust them.

These last-minute adjustments jeopardize this program, because they come so late, when the school year is well on its way. Therefore, the school lunch program suffers severe losses or is put in jeopardy each year because of the lateness of our action.

It would mean the school could plan a budget for this program in future years instead of wondering what adjustments Congress may make, usually after the school year has already begun and they are far into it. Similar automatic adjustment features are now provided in our Nation's social security laws, food stamp laws, and now even in our farm program laws.

So what we are really talking about here is to have for our school lunch program what we have done for our farm program, what we have done for our social security program, and what we have done for our food stamp program. We now have social security, food stamp, and the farm programs with automatic adjustment features.

I believe this feature will be beneficial. I do not expect that will result in

increased costs for next year. As a matter of fact, there is every reason to believe that food costs will come down, and if those food costs do come down, as was stated earlier, it will reflect itself in the amount of reimbursement the Government must make to the local school districts.

Mr. ALLEN. Mr. President, I yield myself such time as I may use.

I am not going to offer any objection on behalf of the committee to this amendment, even though it was turned down in the committee itself, having conferred with a number of the committee members. I did want to comment on what we have already done here in the Senate with respect to this program. We have authorized the expenditure of some $400 million more than was expended last year. We have authorized the expenditure of some $300 million more than the budget figure.

By a vote of 52-to-34, the Senate has added $83,500,000 of that figure on the last amendment, thereby, in the judgment of the Senator from Alabama, inviting a veto of the bill.

It was the opinion of the committee that by accepting the House bill and adding on the amendments that the committee did add on, amendments proposed by the Senator from Minnesota and the Senator from South Dakota, we would end up with a bill that would be accepted by the administration. This is going to run the expenditures on the child nutrition program up to approximately $1.8 billion, whereas the States are spending some $360 million, and they will always continue to spend that proportion or less as long as the Federal Government comes in and insists on picking up the tab.

This is supposed to be a cooperative effort. All of us are for schoolchildren. All of us are for furnishing free lunches. I dare say the 34 Senators who voted against reaching out just a little more are just as concerned about the welfare of the children as are those who stood on the floor of the Senate and beat their breasts and said how much they wanted to do something for schoolchildren.

Let us support a school lunch program, but let us get some cooperation from the State and local governments.

I do feel that we are in danger of having this bill vetoed. I am hopeful that the conference committee will save the bill by reversing some of the actions that the Senate has taken today.

This is an emergency measure that requires quick action. We could have passed the bill 2 hours ago if Senators had accepted the committee recommendations, which added some $217 million to the budget, and which certainly seemed fair.

But be that as it may, the bill will go to conference, and I am hopeful that the bill will be saved in conference, so as to make it acceptable to the administration.

I shall not ask for a rollcall vote on the escalator amendment. It has been stated that Congress is always willing to escalate. We do not need an escalator to escalate a program, as witness the social security amendment, which contained an escalator clause; but the distinguished Senator from Minnesota took the lead in escalating the escalator, by providing that the social security raise come into effect long before it was provided in the escalator clause and in social security.

There is really no need for the amendment. The Senator says that it applies to reducing as well as to raising the amount. I do not feel that the Senator from Minnesota would allow this figure to be reduced; he could come in with remedial legislation if the amount were to be reduced. So a one-sided escalator is not worth a great deal.

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

Mr. ALLEN. I yield.

Mr. DOLE. The Senator from Kansas may be one of the conferees on this bill. I certainly share the views expressed by the Senator from Alabama. I hope we can have a bill that will be satisfactory to everyone. Since school lunch programs urgently need more assistance to continue providing nutritious meals.

I am in the position of many other Senators. I support the escalator amendment of the Senator from Minnesota (Mr. HUMPHREY). I think it is a good amendment. But I could not support the Senator's first amendment for its inflationary effects and for reasons stated by a number of Senators.

I favored the rather generous treatment we gave the school lunch programs in the subcommittee and in the full committee. The 2-cent increase in Federal assistance is needed and will help. Nationally this increase and the other provisions of the bill will make available an additional $238 million to the school lunch program. In addition I support the amendment offered by the distinguished Senator from Minnesota to provide an automatic escalation in the level of Federal participation in the school lunch program should the cost of food continue to increase. For these reasons, and because it appears that the cost of food is finally beginning to stabilize, I feel the increase in Federal assistance level to 12 cents per meal is not necessary at this time. I am hopeful that when we return the bill from conference, it may not contain the first Humphrey amendment, but will contain the escalator, which I think is a good amendment. I would like to join the Senator from Minnesota as a cosponsor of it.

Mr. HUMPHREY. I am highly honored.

Mr. DOLE. The distinguished Senator from Alabama (Mr. ALLEN) has said that he will not ask for a rollcall vote on this amendment. I am advised there may be other Senators who will wish to be on record on this amendment, just as they wanted to be on record for the other amendment, or against the other amendment. So I join in the statement made by the distinguished Senator from Alabama (Mr. ALLEN), but I also join in support of the escalator offered by the distinguished Senator from Minnesota.

Mr. ALLEN. I appreciate the remarks of the distinguished Senator from Kansas.

There is one further defect in the escalator, and it is that it has no way of escalating the State and local contributions. The State and local governments and the volunteer workers at the State level are sitting back and saying, "Well, it is going to be escalated under the escalator clause. What is the use of our making further provision?"

Mr. HUMPHREY. Mr. President, does the Senator yield at that point?

Mr. DOLE. Mr. President, I would say in response that I believe the Senator from Minnesota stated earlier that he had no objection to that. Perhaps it is in the amendment now or will be added.

Mr. HUMPHREY. Mr. President, I would like to point out for the information of the Senate that under Public Law 92–433 there is an adjustment feature as to the amount of State contributions. As the amount of Federal contributions go up, so does the State proportion go up. That is in section 10 of Public Law 92–433, passed in July of 1972. That law makes that provision.

Mr. ALLEN. Mr. President, how much does the Senator feel would be added by the State and the local governments under his pending amendment?

Mr. HUMPHREY. Mr. President, I cannot say for sure. This year we are up to 8 cents, and I suppose that if there were to be an automatic adjustment clause in future years the State contribution would go up by similar percentage increase. I cannot give the exact figures.

Mr. President, the State governments are now paying about 6 percent of the costs of the program and under the bill now before us, which would further increase Federal reimbursements, the State's contribution would increase proportionately, in accordance with section 10 requirements provided in Public Law 92–433.

Mr. DOLE. Mr. President, would the Senator from Minnesota yield?

Mr. HUMPHREY. Mr. President, I will yield to the Senator from Kansas from my time if the Senator from Alabama would yield to me.

Mr. ALLEN. Mr. President, I yield.

Mr. DOLE. Mr. President, as I understand, it is the intent of the Senator from Minnesota that it would apply to State and local governments as well as to the Federal Government?

Mr. HUMPHREY. As provided in the public law I cited a moment ago, Public Law 92–433.

Mr. DOLE. The amendment would not change that?

Mr. HUMPHREY. The amendment would not change that. It would remain as it is under the authorities.

Mr. ALLEN. Mr. President, I yield to the Senator from Delaware.

Mr. ROTH. Mr. President, I join with the Senator from Kansas in saying that I share his concern. I voted against the first part of the amendment of the Senator from Minnesota, as I had hoped this legislation would remain substantially in the form adopted by the House. I support the increased subsidies for school lunches proposed by the House. I think that the increase—cost of living makes it mandatory that we help our school offset this increase.

I am also concerned that we act promptly. My school boards tell me that it is important that we act as promptly

as possible. I fear that amendment we just voted on will delay the legislation. It is already the end of September and we cannot afford further delay.

I do however support the second part of the amendment of the Senator from Minnesota. I think an automatic cost of living formula is the proper way to handle this matter in the future.

If food costs should rise in the future, I fear that corrective action will be taken late in the school year—It is important that our school administrators know prior to the school year what they will receive in Federal assistance. Because I think this is extremely important.

I ask the Senator from Minnesota, if it is agreeable to him, that I be listed as a cosponsor of his amendment.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the name of the Senator from Delaware (Mr. ROTH) be listed as a cosponsor of my amendment. I might say that it is a special pleasure to have him as a cosponsor.

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

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

The yeas and nays were ordered.

In closing, Mr. President, I would like to reemphasize that I support the increased benefit proposed by the Committee as well as the House of Representatives. I hope the conference bill will more nearly reflect the increased benefits of the House bill plus the automatic cost-of-living provision.

Mr. HUMPHREY. Mr. President, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I should like to commend the distinguished Senator from Minnesota for his amendment. I think that in this case we could almost say that what is good for General Motors is good for everyone else. A slight modification is necessary here: If it is good for the UAW in its contracts to have an automatic escalator clause, it is good for everyone else. This has been done as a result of collective bargaining. It has worked extremely well and is not resisted at all by the companies.

On the basis of equity we ought to have an escalator clause and not have Congress be in a position of bailing out the program, when they recognize the facts of life. We cannot take increases in the cost of living out of the hides of the people who are living on an income below the poverty line.

I certainly commend the distinguished Senator from Minnesota for his amendment. I also say that I believe that the Committee on Agriculture and Forestry has done a fine job.

Mr. President, I want to commend the committee for so speedily responding to the financial crisis facing the school lunch and school breakfast programs and for reporting out the bill we are acting on today.

The Congress has been called on to deal with emergencies facing our child nutrition programs in each of the last 4 years. And the Congress seems always to act just in the nick of time with the necessary remedial action. We always seem to act on an emergency basis.

By all indications we shall once again meet the challenge and ward off the money crisis which threatens the integrity of our school food service programs.

No one denies that the cost of preparing and serving lunches and breakfasts has escalated sharply in the last year. My own State of Illinois estimates the increase to be on the order of 15 percent.

No one denies that in the absence of increased Federal contributions and in the face of severe budgetary problems at the State and local levels that the cost of the meal to the paying student will have to be increased. Illinois anticipates that these increases will average out to about 10 cents per lunch.

And no one refutes the proposition that participation decreases as the price increases. The Illinois State school food director estimates a 1-percent drop in participation for every cent increase in price.

Mr. President, this is similar to what happens in the field of mass transit. Every time we raise the price, the participation drops.

These people do not drop out because they want to. They drop out because they cannot pay the price.

We are faced then with two choices: We can stand idly by while students—or, indeed, whole schools or school districts—drop out of the program, or we can raise the Federal reimbursement rates.

I am pleased that the Congress and the administration have agreed that the reimbursement rate for free lunches should be increased from 40 to 45 cents. But even this may not be enough to meet the needs of a State such as Illinois. The director of school food services suggests 48 cents as an appropriate average reimbursement rate.

The PRESIDING OFFICER. All the time of the Senator from Alabama has expired.

Mr. HUMPHREY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Minnesota has 10 minutes remaining.

Mr. HUMPHREY. Mr. President, I yield 2 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 2 additional minutes.

Mr. PERCY. Mr. President, I am also pleased that the committee has recommended increasing the basic reimbursement rate paid for all school lunches. But this measure may also be insufficient to counter inflation. In Illinois, for example, we estimate that the reimbursement rate would have to go from 8 cents to 16 cents per lunch to avoid any price increases whatsoever. We shall, therefore, still be asking young consumers to pay more this year than last.

We have made great progress in recent years to expand participation in our child nutrition programs. And rightly so. The investment we make now in adequate nutrition will reap dividends in years ahead in terms of fully realized human potential as well as savings in health and welfare programs.

We cannot turn our backs on these programs now. We must pass this emergency legislation quickly. Yet, Mr. President, I am extremely troubled by this bill.

I am troubled because we continue year after year to pass child nutrition legislation only in the face of the latest crisis in these programs and only in great haste and on an emergency basis. Our programs deserve better than this.

I think our child nutrition program suffer in the long run from this sort of treatment by the Congress.

Over the years we have built up a jumble of 24 separate child nutrition programs and we have amended each so many times that the welter of regulations and redtape emanating from Washington holds back rather than enhances our efforts to assure good child nutrition.

It is time we take a very long, close look at the incrementally built structure of child nutrition programs. In S. 550, the Comprehensive Child Nutrition Act, I have proposed a consolidation and simplification of these programs. In place of 24 separate programs, each with its own regulations and funding provisions, I propose a single bloc grant to the States which will provide the dedicated people at the State and local levels with the necessary funds to meet the needs they themselves have identified. Flexibility in the use of available funds is impossible under the present fragmented program structure.

I happen to believe my bill provides the best approach to reforming and restructuring our child nutrition programs, but no doubt other approaches of considerable merit also exist. All alternative proposals must be considered by the appropriate congressional committees in the near future if we are ever to eliminate what we are doing today—legislating in the midst of yet another school lunch crisis.

Let us open debate the future of our child nutrition programs. All our children have nothing to lose and a lot to gain from comprehensive and far-reaching reform in these programs.

Mr. President, when I increase an amount and vote for legislation beyond the budgetary level, I always try to point out at the same time where we can take the money from. I do believe that over a period of years we can take more money out of the Department of Agriculture budget for subsidizing the farmers. We need a program which stimulates production and this year's farm bill does set a goal of expanding production. Yet we may still be paying out millions in subsidy dollars should market prices fall below the minimum prices the bill establishes for wheat, corn, and cotton.

Mr. President, I commend the committee for reporting this bill. But we must do more to stimulate food production and get this food into the hands of the needy and those suffering from malnutrition.

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

Mr. HUMPHREY. Mr. President, I yield.

Mr. ALLEN. Mr. President, I call to the attention of the Senator from Illinois the fact that the farm bill which has been enacted and which the President has already signed does move from a program of scarcity to a program of abundance.

If there ever was a time when pay-

ments were made in connection with the nonproduction of crops, that time has ended, I call to the attention of the distinguished Senator from Illinois. That is not a part of the present law of the land, applicable to the 1974 crop.

The PRESIDING OFFICER. Who yields time?

Mr. HUMPHREY. Mr. President, I am prepared to yield back my time. Does the Senator from New York wish some time?

Mr. BUCKLEY. I would like to have some, on the amendment.

Mr. HUMPHREY. I yield to the Senator from New York.

Mr. BUCKLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Sentor will state it.

Mr. BUCKLEY. Have we divided the original amendment of the Senator from Minnesota into two parts or three parts?

The PRESIDING OFFICER. Three parts.

Mr. HUMPHREY. This is the second part.

Mr. BUCKLEY. The second part, dealing only with the escalation?

Mr. HUMPHREY. That is correct.

Mr. BUCKLEY. Let me say, Mr. President, that I support this amendment, first of all because it does equity, and also because if we try to get this kind of legislation on an automatic adjustment basis to reflect increases in the cost of living, we may, in the future, spare ourselves the temptation of not only of adjusting for the increase in the cost of living but then adding another 5, 10, or 15 percent on top of that.

I, therefore, support the amendment.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER (Mr. JOHNSTON). All remaining time having been yielded back, the question is on agreeing to the second part of the amendment (No. 534) of the Senator from Minnesota (Mr. HUMPHREY). 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 Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Utah (Mr. Moss), the Senator from Indiana (Mr. HARTKE), the Senator from Colorado (Mr. HASKELL), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON) and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I further announce that the Senator from Vermont (Mr. AIKEN) and the Senator from Ohio (Mr. TAFT) are absent due to official business.

I also announce that the Senator from Kansas (Mr. PEARSON) is absent because of illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 86, nays 2, as follows:

[No. 411 Leg.]

YEAS—86

Abourezk	Fannin	Muskie
Baker	Fong	Nelson
Bartlett	Fulbright	Nunn
Bayh	Goldwater	Packwood
Beall	Griffin	Pastore
Bennett	Gurney	Pell
Bentsen	Hansen	Percy
Bible	Hart	Proxmire
Biden	Hathaway	Randolph
Brock	Helms	Ribicoff
Brooke	Hollings	Roth
Buckley	Hruska	Saxbe
Burdick	Hughes	Schweiker
Byrd, Harry F., Jr.	Humphrey	Scott, Hugh
Byrd, Robert C.	Inouye	Scott, William L.
Cannon	Jackson	Sparkman
Case	Javits	Stafford
Church	Johnston	Stennis
Clark	Kennedy	Stevens
Cook	Magnuson	Stevenson
Cotton	Mansfield	Symington
Cranston	Mathias	Thurmond
Curtis	McClellan	Tower
Dole	McClure	Tunney
Domenici	McGee	Weicker
Dominick	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Metcalf	
Ervin	Mondale	
	Montoya	

NAYS—2

Allen	Talmadge

NOT VOTING—12

Aiken	Hartke	Long
Bellmon	Haskell	Moss
Chiles	Hatfield	Pearson
Gravel	Huddleston	Taft

So part 2 of Mr. HUMPHREY's amendment (No. 534) was agreed to.

Mr. HUMPHREY. Mr. President, I move that the vote by which the amendment was agreed to be reconsidered.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, in view of the fact that we will very likely have a number of votes this afternoon, or at least it seems so at the moment, I ask unanimous consent that the rollcall votes from now on take up a period of 10 minutes rather than the usual 15 minutes, with the warning signal going out at 2½ minutes after the beginning of the rollcall.

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

The clerk will state the third part of the amendment of the Senator from Minnesota (Mr. HUMPHREY).

The assistant legislative clerk read as follows:

On page 8, line 1, insert the following:

"INCOME GUIDELINES FOR REDUCED PRICE LUNCHES

"SEC. 7. Section 9(b) of the National School Lunch Act is amended by adding the following at the end of said subsection: '*Provided further*, That, for the fiscal year ending 1974 State educational agencies are authorized to establish income guidelines for reduced price lunches at not more than 75 per centum above the applicable family size income levels in the income poverty guidelines as prescribed by the Secretary.' "

Mr. HUMPHREY. Mr. President, this merely makes the reduced price provision of the school lunch more attractive to offer. It provides that schools may go to 75 percent, instead of the current 50 percent, over the income guidelines in offering the reduced priced program to students whose income is just over those applicable for free lunches. Only about 1 percent of students are now participating in the reduced price program. By going to 75 percent, we anticipate that participation in this program may go to 2 percent, we anticipate that participation in this program may go to 2 percent with only minimum additional cost. With the increases in cost for school lunches we are now experiencing many of these students whose income is just over that which would otherwise qualify them for a free lunch, will likely be the first to drop out of the program altogether, because they can least afford to pay the full bill that would be required of them.

Mr. President, what this does in substance, in other words, is to take those that might, because of their income level, drop out of the free lunch program and go into that second tier we have in the school lunch program, which is the reduced price lunch.

I believe that it has genuine merit. It is not a very costly item.

Mr. CURTIS. Will the Senator from Minnesota yield?

Mr. HUMPHREY. I yield.

Mr. CURTIS. Would the Senator kindly explain or give a hypothetical case as just what it does?

Mr. HUMPHREY. The present income level for participating under the free lunch program is somewhere around $4,200 income for a family of four which is the base. Then the law provides that students whose family income is up to 50 percent above that level may participate in a reduced-price lunch program which would be about $6,300 in income for a family of four.

My amendment would enable a family with an income of approximately $7,000 to be eligible for such reduced priced lunches.

Mr. CURTIS. What would be the cost of it?

Mr. HUMPHREY. The maximum estimate on this that we have received is approximately $15 million, if there is wide participation. Probably no cost this year.

Mr. CURTIS. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. I yield myself such time as I may use.

Mr. President, this amendment was not actually considered in the Agriculture Committee. It would allow a reduced price lunch to be served to the children of families that are 75 percent above the poverty guideline, which is a little more than $4,000, and 75 percent added to that would bring it up to approximately $7,200.

Actually, the school districts and the lunchrooms do not look too kindly toward this particular category. They would much rather have the children classified in the free lunch or the paying lunch category. An indication of that is the fact that only 1 percent of the lunches and breakfasts that are served are in this category. It would add a great deal of redtape and bookkeeping to the administration of this program, because they would have to weed out the children who

are in this increased category up to some $7,200.

What is the difference in payments to the State between one getting a free lunch and one getting a reduce price lunch? Under the bill, each one, of course, would get the 12 cents regular payment for each child, it would get the 7 cents in commodities; but whereas the free lunch would have 45 cents added for the free lunch recipient, the reduced price payment would add only 35 cents. So it would be an additional expense to the State government and would make administration of the law much more difficult. I do not believe it is necessary.

We had this matter before us the last time the school lunch program was before the Senate, and at that time it was increased to 150 percent of the poverty level. It is just a case of biting away, biting away, biting away at the various rules and regulations, to call for spending more and more money on the program. I do not believe it is necessary. It does not come to us with the approval of the Agriculture Committee. It was not in the House bill. It would delay the conference in agreeing on a bill. This is emergency legislation. We have a difficult enough time now in ironing out the differences with the House because we have added a couple of hundred million dollars to the bill over what the House did. I do not believe the amendment is necessary, and I hope it is rejected.

Mr. HUMPHREY. Mr. President, this amendment was basically sponsored by the distinguished Senator from New Jersey (Mr. CASE). But I join in sponsoring this important amendment.

I think it should be noted that there is nothing mandatory about this. This is just an expanded option for a school. In other words, the choice now most schools take is either a free lunch or a fully paid lunch.

This amendment applies to persons who are the victims of inflation, as most people are who are in low-income brackets. This relates to a family with an income between $4,200 and $7,200. The children from families having an income within this range would be able to participate in what we call a reduced-price lunch program rather than the free lunch or a fully paid lunch.

All this would do would be to take into consideration the fact that incomes have become meaningless with the rate of inflation that grinds down upon people who have low incomes just an inch above the poverty line. That is all it amounts to.

Today, we are giving the reduced-price lunch fare to families with incomes of approximately that range between $4,200 and $6,200. This would expand that range for families with an income of between $4,200 and $7,200, thereby increasing the incentive for schools having many of these above the poverty income students to offer reduced-price lunches to them.

These children would not get a free lunch.

We legislated, for example, in the committee bill that the reduced-price lunch reimbursement would be increased. We recognized that there ought to be an increase in terms of the Federal reimbursement. All this amendment says is that we will take into consideration certain family income problems. And rather than driving schools into offering only the free lunch and fully paid lunch programs, this amendment would encourage greater use of the reduced-price lunch program. This would permit those schools that wish to take on this kind of program the option to do so, and it would provide some semblance of economic justice to the families and to the children that fall into the middle to low-income ranges.

I am sorry that the chairman does not want to take this amendment to conference, because I think it merits our thoughtful consideration. I believe we ought to do it.

I do not want to have another rollcall vote, but it seems to me that I am obligated, under the terms of this amendment, to bring the issue to a head.

I say to the distinguished Senator from Alabama that if any great additional cost seems to be involved, we could at least take a look at it in the conference committee. Actually, the costs, according to the estimates we have, would be very minimal, even if we got the extra 1 percent of new participation that is estimated. But it would give some schools—such as in New Jersey, in New York, in Illinois, in Pennsylvania, in California, in Ohio, and in Michigan—in the large urban centers where the income level is not very big for living in a metropolitan center, but larger than the present income guidelines permit for free lunches, the opportunity to offer the students in those families a chance to get a lunch at a somewhat reduced rate and still pay their fair share. I think it is perhaps the most equitable amendment we have had here.

Mr. ALLEN. Mr. President, in response to the eloquence and sincerity of the distinguished Senator from Minnesota, after conferring with the ranking Republican member of the committee, the Senator from Nebraska (Mr. CURTIS), we will agree to take the amendment to conference and see what might be worked out.

Mr. HUMPHREY. I thank the Senator.

While I have the floor, I thank the distinguished Senator from Alabama for his steadfast work in behalf of this program. We have had our differences over some details here. But I want the record to show—because sometimes these votes are interpreted by some people as being against the children or against the school lunch, and that is not the case—the Senator from Alabama conducted the hearings, did his work well and promptly, and has a responsibility under the terms of this bill, as it comes from the committee, to defend the committee bill. Also, he has his own convictions. He knows that I have mine. My respect for him is sincere and great.

I just wanted to let him know this, so that the RECORD would be clear as to the sincerity of his purpose and the generosity he has exhibited in this program.

Mr. ALLEN. I thank the distinguished Senator from Minnesota.

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

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the third part of the amendment of the Senator from Minnesota (putting the question).

All those in favor will signify by saying "aye." All those opposed will signify by saying "no."

The noes appear to have it.

Mr. HUMPHREY. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is called for.

On a division, the amendment was agreed to.

Mr. CURTIS. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

H.R. 9639 is amended by adding the following new section:

"SEC. 9. The Secretary of Agriculture is authorized and directed to carry out a comprehensive study to determine if the benefits of programs carried out under the National School Lunch Act and Child Nutrition Act are accruing to those children and schools who are most in need and report his findings, together with any recommendations he may have with respect to additional legislation, to the Congress no later than June 30, 1974."

Mr. CURTIS. Mr. President, I believe Congress should review the entire school lunch and nutrition program. We are told that it is important to get this bill through right away because it is an emergency. In the 92d Congress we amended this law three times. This is the second time in the 93d Congress.

I think Congress should take a look at the whole program, its priorities, how the money is being handled, what the needs are and the like. I think the best way to bring about that result is to ask the department that is to administer it for a comprehensive report of their stewardship on how this program is going.

My amendment asks the Secretary of Agriculture to make this study and report back to us. It will be up to Congress to evaluate the information so reported.

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

Mr. CURTIS. I yield.

Mr. PASTORE. I see no harm in the spirit of the amendment but I hope the history insofar as the debate is concerned will indicate that this is not a hostile move in any way nor a critical move in any way. We are very much interested in feeding our young people because they are the citizens of tomorrow. This program never should be criticized nor degraded. If we can send a lot of money abroad in foreign aid and if we can send money to Vietnam, certainly we can afford to feed our young children where the need is clear.

Mr. CURTIS. I thank the Senator for his contribution. It is my hope that the department can give us an objective and factual report on what the program is doing and what it is not doing, and the like. It would be my hope that the manager of the bill might see fit to accept this amendment.

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

Mr. CURTIS. I yield.

Mr. HUMPHREY. I wonder if the

Senator would be willing to accept the suggestion that the department, in making that study, should work with and consult with the National School Lunch Advisory Council, which is set up to advise the department on these programs.

I want to be sure we get the input not merely from the department and those who have been running the program, but also from those who have been operating these programs. Would the Senator accept that suggestion?

Mr. CURTIS. I would not want to change the amendment, but I would certainly agree that the department might well choose to do that and certainly when the report comes to Congress the appropriate committees would call upon them for their comments, too.

The reason I hesitate to insert it in the amendment is that then we would get an investigation of outside sources and so on, and who is going to run the matter, and I did not have in mind that sort of investigation.

Mr. HUMPHREY. I understand the purpose of the amendment and I commend the Senator. I know the Senator from Nebraska is offering the amendment to look at the totality of the program in terms of future needs, of how it is being operated, and I want to be sure the department, in making that study, will consult with and take into consideration the views and observations of the long-established National School Lunch Advisory Council regarding this program, because that council has a fine background in the whole operation of the program and has views on its future.

Mr. CURTIS. Mr. President, I would not object to having the record show this expression of concern about it, and in all probability the department would not object.

Mr. HUMPHREY. Does the Senator feel this is necessary for the department to do? I mean, to consult with that group?

Mr. CURTIS. Yes, I do because I feel they are an important factor in the final determination. By that I do not mean they should be subject to the will of the Advisory Committee.

Mr. HUMPHREY. I understand that.

Mr. CURTIS. But they should take it into account. What I had in mind was the mechanics of the program, the matching formulas, the basic facts.

Mr. HUMPHREY. Is there anything in the amendment that would tie the hands of Congress during the time the study is being made?

Mr. CURTIS. No, I think not. They are to finish it in this fiscal year, and it is not my intention that this would in any way interfere with what Congress provided for. They would merely bring back information for Congress and Congress will make the decision.

Mr. ALLEN. Mr. President, speaking on behalf of the committee, we are willing to accept the amendment and go to conference with it. I certainly feel that with the legislative history resulting from the colloquy between the Senator from Nebraska and the Senator from Minnesota, the National Advisory Committee on Child Nutrition would be called in for an expression of its views.

We agree to go to conference with the amendment.

I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HANSEN). All time is yielded back. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment is agreed to.

TIME LIMITATION AGREEMENT ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, we have several amendments backed up on the military procurement bill and they will have to be finished today or we will throw our whole week out of order.

Therefore, I ask unanimous consent that time on any amendments to the pending measure, the school lunch bill, be limited to 20 minutes, in accordance with the usual form.

Mr. YOUNG. Mr. President, reserving the right to object, I would like to have 5 minutes.

Mr. CURTIS. The Senator will get 5 minutes on the bill.

Mr. ROBERT C. BYRD. And the time on any amendment to amendments be limited to 10 minutes, to be equally divided.

Mr. BURDICK. Mr. President, reserving the right to object, would the Senator give 5 minutes to the other Senator from North Dakota? I need 5 minutes.

Mr. ROBERT C. BYRD. Yes.

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

LEAVE OF ABSENCE

Mr. MANSFIELD. Mr. President, I have to leave to attend the funeral of a very dear friend. If present and voting on final passage of this bill I would vote in favor of it.

I ask unanimous consent of the Senate to be excused for the remainder of the day and part of tomorrow.

The PRESIDING OFFICER. Without objection, the Senator is excused.

Mr. DOLE. Mr. President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

At the end of the bill add the following new section:

SEC. 5(d)(2) of the Act of September 30, 1950 (Public Law 874, 81st Congress). Shall not operate to deprive any local educational agency of payments under such Act during the fiscal year ending June 30, 1974, as if such local educational agency is in a state which after June 30, 1972 has adopted a program of state aid for free public education which is designed to equalize expenditures for education among local educational agencies in that state. This section shall be effective on and after July 1, 1973, and shall be deemed to have been enacted on June 30, 1973.

Mr. DOLE. Mr. President, let me make it clear at the outset that this amendment is so drafted as to apply to only two States, the State of North Dakota and the State of Kansas. It does not in any way affect the impacted aid program in any other State.

The amendment is limited to these two States, because of adverse rulings they have received from the Department of Health, Education, and Welfare due to their State laws being in conflict with section 5(d)2 of Public Law 874.

I think it best that I take another moment or two to explain why this amendment is necessary and why it should be tacked onto the school lunch bill. Unless this action is taken, one school district in Kansas will be out of funds by December 1, and several others will face several financial problems in January. There appear to be no other education bills to be considered by the Senate in the coming month which would provide an appropriate vehicle for the amendment. So because of this urgency I ask that the bill be attached to the school lunch measure.

Insofar as Kansas is concerned, the amendment involves about $8 million. I feel it is a fair amendment but the key question that should be asked by anyone in this Chamber who votes for the amendment is whether or not the new State education assistant program in Kansas discriminates against federally impacted districts for this is what the provision in the law which is to be waived was enacted to prevent.

I can say very clearly that the new State school assistance program in Kansas maintains State support for impacted districts.

Under the new program in Kansas the impacted districts receive an increase in State assistance amounting to about $50 million. I make this point so that everybody will understand there was not any effort on the part of Kansas or the legislature to use impacted funds to reduce State and local effort. I will include in the RECORD a chart which clearly evidences this fact.

Mr. President, the Kansas Legislature last year, in an attempt to comply with a court decision which had found the State's prior school foundation finance law unconstitutional on both Federal and State grounds, enacted a general State education assistance act aimed at equalizing the tax effort and the per pupil expenditure within each of the State's school districts. The State legislature enacted a comprehensive formula which is considered one of the more progressive laws to be adopted in the equalization field. The legislature discovered, however, that in order for the equalizing formula to work and function equitably it was necessary that Public Law 874 funds be considered as a factor in determining the level of State assistance to that school district. The inclusion of Federal impact funds in the definition of "local resource" was found to be necessary in order that an equitable result could be reached under the State law and the court mandated equalization obtained. Yet, it is the inclusion of Public Law 874 funds in the definition of "local resource" which places the State law in conflict with the Federal law and led to the September 14 ruling by HEW that Kansas was not in compliance with Federal law and, therefore, not eligible to receive Federal impact aid funds.

Section 5(d)2 of Public Law 874 states that no payments may be made during any fiscal year to any local education

agency in any State which has taken into consideration impact aid programs to its school districts in determining the amount of State aid to be made available to that school district. In effect, the State is required by 5(d)2 to provide aid to federally impacted districts at the same rate as nonimpacted districts and totally ignore the fact that Federal payments are also being made to that district. The requirement is in conflict with the basic tenants of the equalization concept and places States in a precarious position.

The intent of the amendment I am proposing is to suspend the application of 5(d)2 in determining the eligibility of a State to receive fiscal year 1974 impact aid funds. Only a 1-year suspension of 5(d)2 is permitted by the amendment, and in order for the suspension to be granted to any State, the State must itself request that suspension. In addition, the amendment is drafted in such a way, that taking into consideration the time requirement for State legislative action, only Kansas and North Dakota, which have already been ruled ineligible for impacted aid funds in the coming year, would be eligible for suspension of 5(d)2 during fiscal year 1974. Thus, the amendment would not encourage other States to change their laws in a way that might conflict with 5(d)2 just to take advantage of this provision.

The purpose of the amendment I propose is to provide a 1-year period in which Federal impact funds would still be available to Kansas, taking into account the fact that the spirit, if not the letter of section 5(d)2 is being adhered to by the State law. During this year, comprehensive action on the elementary and secondary education law might possibly solve the problem or, in the alternative, the State legislature would have the opportunity to take whatever action is deemed appropriate. Immediate State legislative action to bring the Kansas law in line with Federal law is not a possible alternative because the prior State school finance law was ruled unconstitutional and reversion to the prior law would violate the court order and subject the State to court action. A simple revision of the State law removing the Federal impact aid funds from the definition of "local resources" is also not possible because of the ramification a simple change would have and the inequities which would arise.

If Public Law 874 receipts are not considered in the computation of State aid, some school districts would have no general fund tax levy and their revenue would exceed the amount that it is possible for them to legally budget or spend. For example, if the 874 receipts are not considered in the State formula in Junction City, Washburn, and Derby, three of the most heavily federally impacted districts in the State, there would be no local property tax levy to support education and each district would have nearly one-half million dollars it could not spend due to the local budget ceiling provided in the law. A further explanation of this point is included in testimony presented before the Labor and Public Welfare Committee by Joseph Harder, State senator and chairman of the State Committee on School Finance.

Thus, a simple revision of the law is not possible at the State level, and time is needed for more comprehensive action to be taken on either Federal or State law.

The amendment I propose is intended to grant both the State and Federal Government the time they might need to resolve the conflict that exists in North Dakota and Kansas without disrupting the operation of the impact aid program in other States.

Time is an important element in this consideration in terms of Kansas interests. One school district, the Fort Leavenworth School District, is comprised entirely of Federal reservation property. Because of its unique situation, a special State law was drafted to provide the necessary and equitable level of State assistance to the Fort Leavenworth School. The State law appropriates a maximum of $700,000 but in no case an amount to exceed $291 per pupil to the Fort Leavenworth School District for each fiscal year. Since all of the students at the Fort Leavenworth School are category A students, and the Federal impact aid for these students has remained relatively constant, the State used an estimated figure which they felt could be relied on as the level of Federal assistance to the Fort Leavenworth School, and then added enough State assistance to bring the Fort Leavenworth School budget up to the average per pupil expenditure across the State.

This special State Fort Leavenworth law, however, does not require that the State make up the loss of Federal aid that the Fort Leavenworth District suffers in case impact aid to category A students is withheld. Because the State of Kansas and one of its school districts have now been ruled ineligible for 1974 impact aid and because the State under existing law is not required to make up the loss in Federal funds, it appears that the Fort Leavenworth School will only be able to hold its doors open for its 2,500 category A students until early November unless some legislative action is taken.

In the other impacted districts, the State law guarantees the schools a set budget less contributions they should receive from "local resources." Yet, the State bases the impact aid portion of the local resources on the prior year's funding level under the 874 program. Since impact aid funds were available last year, the State does not under the existing State law incur an increased liability to the impacted school district this year because this year's Federal moneys are cut off. Thus, to increase the level of assistance to State schools to make up for this year's withholding of Federal funds, a legislative change in the State law will be necessary, and the complexities of making this change would delay increased payments until early February. In many of the more heavily impacted districts across the State, school operations during the month of January will only be able to be maintained at a marginal level. For this reason, prompt legislative action at the Federal level is needed. Leaving the issue to be resolved by consideration of H.R. 69 is not a satisfactory solution for Kansas as far as this year's problems are concerned, although resolution of the issue on the comprehensive education bill will eventually determine the fate of the State's program.

I would add at this point, however, that the Kansas law is a progressive statute in its field. As more States take upon themselves the equalization burden, more States will experience the problems with Public Law 874, and I therefore feel that the Federal rather than the State law should be altered to solve this problem.

Finally, one of the more important questions remaining regarding the amendment is that of a justification for waiving the Federal law to comply with the State's statute. The Kansas State law, it appears, was enacted with an awareness of the potential conflict with 5(d)2, but because the alternatives for the State legislature were limited and the modifications which would have been required would have compromised the quality of the law, it was felt that the present program should be instituted. The State argued that its law did not conflict with 5(d)2 because the Kansas impact funds were considered as a "local resource" rather than being assessed as an outright reduction from the level of State assistance required. Unfortunately, HEW could not buy that argument.

However, I feel there is even a stronger argument to be made for the State law in that it complies with the basic spirit and purpose of 5(d)2 even if it does conflict with the letter of 5(d)2. Under the new State law, all but three of the States' 94 impacted districts received an increase rather than a decrease in State assistance even though Public Law 874 funds were counted as a local resource.

Statewide, State assistance comprises approximately 43 percent of the total general fund budgets of all school districts. In the three largest impacted districts, State assistance averages 54 percent of the school districts' general fund budget. Thus, it seems obvious that the State has not reduced its financial responsibility to impacted school districts, but actually has increased its assistance to these districts. Section 5(d)2 was included in the law for just that purpose—to insure that States did not diminish their support for districts receiving impact funds, in effect, relying on Federal support to do the State's job for it. That purpose is upheld by the State law, and I feel it is unjust that the schoolchildren in Kansas should suffer, and it is unfair that the State's taxpayers be required to shell out an additional $8 million merely because of a technical conflict between the Federal and State law which could not be avoided by the State without compromising the State legislature's goals in enacting the law.

The conflict is obvious, and the legislature is caught between the court on one hand and the Federal Government on the other.

I have discussed this amendment with

the ranking member of the Education Subcommittee, the Senator from Rhode Island (Mr. PELL), and the ranking minority member of the committee, the Senator from Colorado (Mr. DOMINICK). I have also discussed the amendment with Senators BURDICK and YOUNG. My colleague, Senator PEARSON, who as everyone knows, is indisposed at this time, also has given strong support for the amendment. We think we have touched all the bases to make certain, first of all, that this provision is restricted to just two States, and second, that the amendment is signed into law before the impacted school districts are forced to substantially reduce their programs and detrimentally affect the education of their students.

The amendment is drafted so it will be harmless on areas outside Kansas and North Dakota. It is not going to encourage any other States to change their laws. By providing a 1-year suspension, the amendment gives both the States and the Federal Government an opportunity to erase the conflict that now exists between States and Federal law, and I have been assured by the distinguished Senator from Rhode Island that the Senate committee will give close attention to this issue in its forthcoming consideration of the new education bill.

Mr. President, I ask unanimous consent that there be printed in the RECORD the following: The ruling of the Department of Health, Education, and Welfare, dated September 14, 1973; a copy of the testimony of Kansas State Senator Joseph Harder to the Senate Education Subcommittee, dated September 14, 1973; a summary of the Kansas Equalization Statute and special State legislation relating to the Fort Leavenworth School District; a table indicating the estimated increase or decrease in State aid for school districts which received Public Law 874 funds; a statement by the Senator from Colorado (Mr. DOMINICK) in support of the amendment; and a statement by my distinguished colleague (Mr. PEARSON) in support of the amendment.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., September 14, 1973.

Mr. ROBERT N. JONES,
Director, School Facilities Services, Kansas State Department of Education, Topeka, Kans.

DEAR MR. JONES: This is to inform you that the review referred to in my letter dated August 10 to ascertain whether the recently enacted Kansas State aid apportionment statute is or is not in compliance with Section 5(d)(2) of Public Law 81-874 has been completed.

The following will explain the basis for our conclusion that this Kansas Statute is not in compliance with Section 5(d)(2) of Public Law 81-874, Title I:

Section 5(d)(2) of Public Law 81-874 provides:

"No payments may be made during any fiscal year to any local educational agency in any State which has taken into consideration payments under (Title I of P.L. 874) in determining the eligibility of any local educational agency in that State for State aid (as defined by regulation), or the amount of that aid, with respect to free public education during that year or the preceding fiscal year, or which makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under (Title I) than such local educational agency would receive if it were not so eligible." (Section 5(d)(2); 20 U.S.C. 240 (d)(2))

The question presented is whether, under the new State law, Kansas takes into consideration payments under Title I of Public Law 874 to local educational agencies in determining the amount of State aid made available to the local educational agencies.

Section 14 of the new State law provides:

"In February of each year, the state board (of education) shall determine the amount of general state aid each district is entitled to receive for the current school year by subtracting the amount of the district's local effort from the district's legally adopted budget of operating expenses for the current school year. The remainder is the amount of general state aid to which the district is entitled."

"Local effort" is defined in section 13(c) of the Act as—

". . . the sum of (1) the product of a district's local effort rate and the district wealth, and (2) an amount equal to moneys the district received in the preceding school year, or was entitled to receive if no application was made for such moneys, under the provision of 20 U.S.C.A. 238 and 239 (title I of P.L. 874) and congressional appropriations therefor, and (3) an amount equal to the amount that the state board determines the district is entitled to receive from the fund established in section 45 (the county school foundation fund) based on the percentage of such fund that the district is entitled to receive from the levy made in the current school year for the fund, and (4) the amount of intangible tax to the credit of the district on the tax rolls of the current year."

Section 8 defines legally adopted budget of operating expenses as "the amount legally authorized for such expenses in the budget of a district." Section 7 defines operating expenses as "the total expenditures and lawful transfers from the general fund of a district during a school year for all purposes, except expenditures for the purposes specified in section 35." And section 35 makes it clear that P.L. 81-874 funds are not excluded from a district's operating expenses. It reads in part as follows:

"Expenditures of a district for the following purposes are not operating expenses:

* * * * *

"(e) Programs financed in part or in whole by federal funds which may be expended although not included in the budget of the district, excepting funds received under the provisions of 20 U.S.C.A. 238 and 239 (title I or P.L. 874), to the extent of the federal funds to be provided."

Therefore, the LEA must include in the budget payments received or eligible to receive under Public Law 874 as "local effort." Since these funds are subtracted to arrive at the amount of State aid, they are considered in the distribution of State aid. The effect of this statute is to reduce the amount of State aid to Public Law 874 applicants, thus we conclude that it is not in compliance with Section 5(d)(2) of Public Law 874.

You have expressed the opinion that the Kansas School District Equalization Act does not apply to Unified School District No. 207, Fort Leavenworth, and that the legislature makes a separate appropriation for USD No. 207.

Section 48 of the new State law provides:

"Except for this section, nothing in this act shall apply to the school district created by K.S.A. 72-5333a. The legislature shall make suitable provisions for financing the educational needs of such school district."

K.S.A. 72-5333a provides:

"The Fort Leavenworth military reservation, by and with the consent of the department of defense of the United States, shall be and the same is hereby set apart, established and created a school district, to be designated and known as the 'Fort Leavenworth school district,' being unified school district No. 207, Leavenworth County, Kansas."

A premise that because USD No. 207 is excluded from the provisions of the School District Equalization Act, that Public Law 874 funds may be approved for USD No. 207 cannot be sustained.

The Federal law provides that "no payments may be made during any fiscal year to any local educational agency in any State" if that State takes into consideration the Public Law 874 payments to any LEA in determining the eligibility for or the amount of State aid to any LEA. USD No. 207 is an LEA in the State. Assuming the payments it receives under Public Law 874 are not taken into account to determine the amount of State aid which it may receive, nevertheless, such Federal payments must be considered with respect to other LEAs in the State. As we read 20 U.S.C.A. 240(d)(2), even if the State did that with one LEA, Federal funds would have to be withheld from all LEAs in the State.

Unless we receive assurance that the newly enacted legislation will not be implemented, no Public Law 874 payments can be authorized for Kansas school districts for the fiscal year beginning July 1, 1973.

Sincerely yours,

GERALD M. CHERRY,
Director, School Assistance in Federally Affected Areas.

STATE OF KANSAS,
SENATE CHAMBER,
September 14, 1973.

To: Senate Education Subcommittee, Senator Claiborne Pell, Chairman.
From: Kansas State Senator Joseph Harder.
Subject: Public Law 874 Funds.

I sincerely appreciate having the opportunity to appear before this committee. I am here today to share my views, and to relate to you the problems we have encountered with the present federal statutes and administrative regulations concerning (impact area) P.L. 874 funds. The problem presented in this paper is not only a concern in the State of Kansas, but the Education Commission of the States and the National Legislative Conference.

The details of my testimony will focus on the new Kansas school finance law because I am most familiar with it, but other states have been or undoubtedly will be confronted with the same problem that the Kansas Legislature encountered with respect to P.L. 874 funds.

Realizing that the old Kansas school finance laws did not provide for equalized tax effort or equalized educational opportunity, committees of the Kansas Legislature studied the problem for a number of years before the School District Equalization Act was enacted in 1973. During the course of these studies, several court cases have required state legislatures to provide for equalization of tax effort and educational opportunities. In Kansas, a case was filed and a district court judge ruled that Kansas laws did not conform with the state or the federal constitutions. The Kansas Attorney General evidently agreed with that ruling since it was not appealed to the Kansas Supreme Court. The judge ordered the Legislature to restructure the school finance system by July, 1973.

Kansas recognized it had an obligation to improve the financing of public schools even before the court mandated finance reform in Caldwell vs. the State of Kansas. In attempting to effect a solution, various methods were explored for financing public edu-

cation. Invariably, the problem of how to deal with PL 874 moneys arose.

If the states are to be "fiscally neutral" in order to comply with standards laid down in several court decisions, including Caldwell as it affected Kansas, then the resources of school districts, including PL 874 funds, must be taken into account.

BRIEF EXPLANATION OF THE KANSAS SCHOOL FINANCE FORMULA

The general state aid formula in the 1973 School District Equalization Act is based on the "district power equalizing" concept. In general, the formula in the Act is one under which a district local effort rate (LER) is prescribed by law at 1.5% for a specified or "norm" budget per pupil (BPP), as determined under a schedule which divides districts into enrollment categories selected through analysis of median operating costs per pupil at various levels of enrollment. If the BPP of a district is more or less than the amount specified in the enrollment-BPP schedule, the LER is proportionately more or less than the prescribed LER of 1.5%. The district's wealth is multiplied by its LER to determine, in part, how much the district will have to raise to finance its general fund budget. Therefore, the higher a district's BPP in relation to the specified or "norm" BPP in its enrollment category, the higher its LER and the greater its deduction based on district wealth. State aid is provided if the required local effort (district wealth times LER plus other deductions discussed below) does not produce enough revenue to finance a district's general fund budget.

More specifically, general state aid for a district is computed as follows: the district's legally authorized general fund budget minus the sum of

a. district wealth times the district LER,

b. district receipts (if any) in the preceding school year under Public Law 874,

c. district's share of the 2-mill county school foundation tax levy, and

d. district's share of the intangibles tax (school districts receive 25% of this tax).

Kansas' new general state aid formula is designed to provide more state aid to districts with low "wealth" per pupil than to districts with high "wealth" per pupil (wealth is measured by adding the total equalized assessed valuation and taxable income of a school district). Districts with low "wealth" per pupil include those which have received relatively large amounts of PL 874 funds—they have such low "wealth" mainly because of their number of federally-impacted pupils in relation to their taxable property valuation (federal property being exempt from the property tax).

If Public Law 874 receipts are not considered in the computation of state aid, some school districts would have no general fund tax levy and their revenue would exceed the amount that it is possible for them to legally budget or spend. We have listed below three Kansas school districts which receive large sums of 874 funds and the amount of the property tax levy for the 1973–74 budget. As you will notice, the amount of 874 funds received by each school district the prior year, which is considered in computing state aid, far exceeds the amount of property tax levy. I would particularly call your attention to Lines 5 and 6. Junction City would receive over ¾ of a million dollars in revenue that it would be unable to spend if 874 funds are not considered in the computation of state aid. This also means it would have no mill levy for the general operation of the school district. The Washburn and Derby school districts would have approximately $500,000 "excess revenue" with no general fund mill levy.

Based on 1973–74 adopted budgets	Junction City	Washburn	Derby
1. General fund budget adopted for 1973–74	$5,027,400	$2,334,152	$4,021,920
2. Estimated general State aid in budget, 1973–74	2,200,532	784,020	2,246,839
3. Public Law 874 receipts, 1972–73, deducted in computing general State aid	1,549,512	902,564	947,875
4. Property tax levy for general fund in 1973–74 budget	782,896	404,878	451,633
5. Property tax levy if Public Law 874 not deducted	0	0	0
6. Revenue in excess of general fund budget if Public Law 874 not deducted	766,616	497,686	496,242

Other districts with comparable enrollments and budgets per pupil, but which receive relatively little or no PL 874 funds, have general fund tax rates ranging from 20 to 30 mills.

The new Kansas school equalization formula provided a considerable amount of property tax relief for many school districts throughout the state. Taxpayers in the three school districts listed below, which received large sums of 874 funds, also received a reduction in property tax for general operating purposes.

[In mills]

	1972 general and county foundation rate	1973 general and county foundation rate	Amount of reduction
Junction City	25.26	21.43	−3.83
Derby	32.29	17.74	−15.55
Washburn	35.91	23.71	−12.20

The Junction City School District will receive 65% of its general fund budget from state and PL 874 aid. Washburn school district will receive 59% and Derby will receive 72% from those two sources.

The Kansas Legislature has enacted a new school finance law which is designed to improve equalization of local tax effort and of expenditures per pupil. There certainly was no intention to discriminate against districts which have received PL 874 funds, as indicated by the above figures.

* * * * *

In one sense under the plan, the state is oblivious to the PL 874 Program just as it is to the "wealth" of any individual district. The plan provides for full funding of a school district's legally adopted general fund budget. That budget, subject to certain constraints, is determined locally. To the extent that a district's resources for funding this budget increase or decrease, the state would provide more or less aid, in the amount necessary for full funding of the district's budget.

During the hearings on the new Kansas school finance law, no one representing any of the districts which receive PL 874 funds appeared before the committees to object to the way such funds are treated in the new law.

The district court judge who struck down the old Kansas school finance laws reviewed the 1973 Equalization Act and ruled that it established a constitutional finance system.

I cannot overemphasize the urgent need to change the federal law so as to permit states to take PL 874 funds into account in an equalization formula. For example, one Kansas school district which receives a very large sum under Public Law 874 probably will run out of operating cash by December 1 if PL 874 funds for FY 1974 are not distributed by then.

Mr. Justice Powell, at the conclusion of the U.S. Supreme Court's majority opinion in *Rodriguez*, said:

The consideration and initiation of fundamental reforms with respect to state taxation and education *are matters reserved for the legislative processes of the various states*, and we do no violence to the values of federalism and separation of powers by staying our hand. We hardly need add that this Court's action today is not to be viewed as placing its judicial imprimatur on the status quo. The need is apparent for reform in tax systems which may well have relied too long and too heavily on the local property tax. *And certainly innovative new thinking as to public education, its methods and its funding, is necessary to assure both a higher level of quality and greater uniformity of opportunity.* These matters merit the continued attention of the scholars who already have contributed much of their challenges. *But the ultimate solutions must come from the lawmakers and from the democratic pressures, those who elect them.*" (emphasis added)

To achieve greater equalization of local tax effort and educational opportunity, lawmakers in Kansas and certain other states have concluded that Public Law 874 funds must be taken into account as part of the financial resources of school districts which receive such funds. Section 5(d)(2) of PL 81–874 is a serious impediment to the current efforts of the states to achieve greater equalization. The Congress should keep in mind what Justice Powell said in the above quoted excerpt and should, therefore, remove federally-imposed restrictions on the taking into account of PL 874 funds in state school finance equalization laws.

I will be glad to try to answer any questions you may have concerning this problem

SUMMARY OF KANSAS EQUALIZATION STATUTE

SUMMARY OF SUB. S.B. 92

Following is a summary of the major provisions of the 1973 School District Equalization Act. Numerous details are not covered and for them one should refer to Sub. S.B. 92.

Some important definitions

"Pupil" means any person who is regularly enrolled in any of grades K–12 of a school district. Any pupil not enrolled full-time shall be counted on a proportional basis, to the nearest one-tenth. Kindergarten pupils shall be counted as one-half pupil. An area vocational school pupil shall be counted as that proportion of one pupil (to the nearest one-tenth) that his non-vocational education enrollment bears to full-time enrollment.

"General fund" means the fund of a district from which operating expenses are paid and to which is deposited general state aid, property taxes levied for operating expenses, receipts from the 2-mill county levy, the amount of the 10% income tax rebate, receipts under PL 874, payments under K.S.A. 72–7105a, the district's share of the intangibles tax, and such other moneys as are provided by law.

"Operating expenses" means the total expenditures and lawful transfers from the general fund during a school year, except for expenditures specified in section 35 of the bill.

"Legally adopted budget of operating expenses" means the amount legally authorized for such expenses (i.e., from the general fund) in the budget of a district. To establish a base for computing limitations on operating expenses in 1973–74 and thereafter, "legally adopted budget of operating expenses" in 1972–73 means the amount budg-

eted in the general fund, excluding transportation and social security (if any).

"Budget per pupil" means the legally adopted budget of operating expenses divided by the number of pupils enrolled in the district on September 15. The definition of BPP is used in both the general state aid formula and in the budget control provisions of the bill.

"District wealth," which is used in the general state aid formula, means the sum of the adjusted valuation of a district and the taxable income within a district. "Adjusted valuation" is the assessed valuation of tangible taxable property adjusted to a 30% assessment level (the level required by Kansas law). "Taxable income" is the amount reported by resident individuals on Kansas income tax returns.

General State aid

The general state aid formula in Sub. S.B. 92 is based on the "district power equalizing" concept. In general, the formula in the bill is one under which a district local effort rate (LER) is prescribed by law at 1.5% for a specified or "norm" budget per pupil (BPP), as determined under a schedule which divides districts into enrollment categories selected through analysis of median operating costs per pupil at various levels of enrollment. If the BPP of a district is more or less than the amount specified in the enrollment-BPP schedule, the LER is proportionately more or less than the prescribed LER of 1.5%. The district's wealth is multiplied by its LER to determine, in part, how much the district will have to raise to finance its general fund budget. Therefore, the higher a district's BPP in relation to the specified or "norm" BPP in its enrollment category, the higher its LER and the greater its deduction based on district wealth. State aid is provided if the required local effort (district wealth times LER plus other deductions discussed below) does not produce enough revenue to finance a district's general fund budget.

More specifically, general state aid for a district is computed as follows: the district's legally authorized general fund budget *minus* the sum of

a. district wealth times the district LER,

b. district receipts (if any) in the preceding school year under PL 874,

c. district's share of the 2-mill county school foundation tax levy, and

d. district's share of the intangibles tax (school districts receive 25% of this tax).

The total of items (a) through (d) is defined as a district's "local effort."

For the 1973–74 school year, the enrollment categories and the specified or "norm" BPP's are:

District enrollment (E)	Budget per pupil	Adjustment
Under 400	$936	(1)
400 to 1,299	936	(2)
1,300 and over	728	(1)

[1] None.
[2] Minus $0.23111 (E–400).

These categories were based on an analysis of general fund budgets per pupil (less transportation and social security) in 1972–73. By using more than one enrollment category, the general inverse relationship of enrollment and BPP is taken into account. The BPP specified for districts with under 400 pupils is the median BPP of all districts with 400–499 enrollment. This was a policy decision by the legislature in order *not* to establish an excessive BPP "norm" for such districts, many of which have very high BPP's. The adjustment factor in the above schedule is designed to prevent sharp changes in the specified or "norm" BPP between the lowest and middle and the middle and highest enrollment categories.

The formula for determining a district's LER based on the above schedule is:

$$\frac{\text{District's BPP}}{\text{BPP "Norm" for the District's Enrollment Category}} \times 1.5\%$$

As previously stated, if a district's BPP is greater than the "norm" BPP in its enrollment category, its LER will be greater than 1.5% in the same proportion; if its BPP is less than the "norm", its LER will be less than 1.5% in the same proportion. To illustrate: a district with under 400 pupils and a BPP of $936 will have a LER of 1.5%, but another district with less than 400 pupils and a BPP of $1,872 will have a LER of 3.0% because $1,872 is twice the "norm" BPP of $936.

The specific enrollment categories (except "under 400") and the "norm" BPP's set forth in the above schedule may change after 1973–74. In order to keep the schedule reflective of current enrollment and BPP trends, Sub. S.B. 92 provides that the State Board of Education shall make an annual analysis of BPP's in enrollment intervals of 100 pupils ranging upward from the minimum or lowest category of "under 400 pupils." This provision is intended to prevent state aid from lagging behind the trend of operating costs, as occurred under the repealed school foundation finance law.

Under the "power equalizing" formula in Sub. S.B. 92, each district's locally-elected board of education will determine what it wants to budget per pupil, subject to budgetary limitations which are discussed subsequently herein. However, the higher the BPP the higher the LER would be. The state will make up the difference between the district's general fund budget and its "local effort" from revenues derived from the state as a whole. Therefore, each district will have equal power to select its level of spending because its expenditure per pupil will be a function of the school board's budget policies and its local effort, not of the district's wealth.

Transportation aid

State aid for transportation of pupils is provided under the same cost-density formula as in the repealed school foundation finance law. However, under Sub. S.B. 92 aid is based on 100% of actual cost or 100% of the cost-density formula, whichever is less, instead of the lesser of 70% of cost or 70% of the formula under the repealed law. Also, the limitation of $6 million for transportation aid was deleted; that limitation had required proration of transportation aid at 75% in 1972–73. All districts that now qualify for transportation aid, including those that will receive no general aid or less general aid, will be entitled to an increase in transportation aid.

STATE SCHOOL EQUALIZATION FUND

Sub. S.B. 92 establishes a state school equalization fund from which general and transportation aids are to be paid. This fund consists of (a) all moneys deposited in the state annual school fund, mainly from the motor carrier property tax which is collected by the state, (b) proceeds of fines, penalties and forfeitures collected by courts for violations of state laws (such proceeds formerly were credited to the county school fund), (c) 5.5% of state sales and use tax collections, and (d) amounts appropriated therefor or transferred thereto by the legislature.

Prior to enactment of Sub. S.B. 92, 10% of state sales and use tax collections was earmarked for the local ad valorem tax reduction fund (LAVTRF). School districts received about 55% of that fund. The new law earmarks 4.5% of such tax collections for the LAVTRF and eliminates school district sharing in that fund. In effect, the school districts' share of the LAVTRF will be used to help finance state aid under the new state school equalization law.

DISTRIBUTION OF STATE AIDS

General state aid will be distributed directly to school districts, as follows: on the 20th of each of the months of September through January, an amount equal to 10% of the district's general state aid entitlement in the preceding school year; on the 20th of each of the months of February through April, 10% of the current school year's entitlement; and on May 20, the full amount of the current year's entitlement less amounts paid in September through April. A special transitional provision is that the payments to be made in September 1973 through January 1974 shall be 10% of the amount the district would have received as general state aid in 1972–73 if Sub. S.B. 92 had been in effect that year.

General state aid would be prorated among all districts entitled to such aid if the amount in the state school equalization fund on or after March 1 is insufficient to pay general aid in full.

Transportation aid will be distributed in two payments: on September 25, half of the amount paid as transportation aid in the preceding school year; and on February 25, the entire amount of the district's entitlement for the current school year less the amount paid on September 25. Another transitional provision is that the payment on September 25, 1973, shall be an amount equal to the full amount the district received as transportation aid in 1972–73.

COUNTY SCHOOL FOUNDATION FUND

The county school foundation fund tax levy is continued under Sub. S.B. 92, but at a reduced rate. The rate under the repealed law was approximately equivalent to 8 mills on assessed valuation adjusted to a 30% level of assessment. Section 45 of the new law provides that the levy for the county fund shall be at a rate which will produce the amount which would be produced by a 2-mill levy on the 1971 adjusted valuation (30% level of assessment) of the county. By pegging the dollar amount of the levy to 1971 adjusted valuation, the actual tax rate necessary to produce the amount required will decline as assessed valuations increase.

No change was made in the distribution of the county foundation fund. That is, most of the fund will be distributed to districts in the county on the basis of their relative number of certificate employees. There will still be a per pupil distribution where joint school district territory and pupils are involved.

The county school foundation levy remains exempt from the property "tax lid" (1973 Sub. S.B. 11).

Ten percent income tax rebate

Commencing with taxable years beginning after December 31, 1972, each school district shall be entitled to an amount equal to 10% of the resident individual income tax liability, after credits for taxes paid to another state, imposed under the Kansas income tax law. This entitlement will be based upon the district residence of taxpayers as shown on state income tax returns filed in 1974 and in each year thereafter.

An amount equal to the entitlement of districts is to be transferred from the state general fund to the new school district income tax fund, upon certification thereof by the state secretary of revenue, prior to the prescribed distribution dates. These dates are May 1 and August 1, beginning in 1974, for moneys transferred prior thereto and February 1, beginning in 1975, for money transferred after July 31 of the preceding year. Districts will receive two payments during their 18-month budget period beginning July 1, 1973, and these two payments should cover most of their entitlements based on returns filed in 1974. The payments in February of each year are expected to be small.

It is estimated that the total income tax

rebate to districts will approximate $11 million in May and August of 1974. All districts are entitled to the 10% rebate, which has no bearing on general state aid or the computation thereof. The real effect of the revenue which otherwise would have to be raised locally from the property tax.

Budgetary limitations and appeals

Enrollment categories identical to the ones established for purposes of the general state aid formula are made applicable to the budget control provisons in section 26 of Sub. S.B. 92. The basic limitation is that no district may budget or expend for operating expenses per pupil more than 115% of its BPP in the preceding school year or 105% of the median BPP in the preceding school year of districts within the same enrollment category, whichever is less. However, any district may budget or expend 105% of its BPP in the preceding school year. Also, if approved by the electors of the district, the BPP may be increased to the BPP in the preceding year of the district which had the highest BPP in the enrollment category, provided that the increase does not exceed 115% of the district's own BPP in the preceding year. No district may budget in any year an amount for operating expenses less than $600 per pupil.

These limitations were designed to allow the low expenditure districts within each enrollment category to increase their BPP's by a greater percentage than the high expenditure districts, thus narrowing the gap over a period of years. The $600 BPP floor applies only to the district with the lowest BPP in the state, and it may increase its BPP by about 24% in 1973–74.

If a district does not budget in any year the full amount allowable under the basic limitations, i.e., excluding the election provision, the difference may be added to its legal budget for operating expenses of a later year, provided that the total increase does not exceed 115% of its BPP in the preceding school year. This provision was intended to make it unnecessary for districts to budget the full amount allowable in each year, when such amount may not be needed at the time, in order to protect their budget base for the future.

If the enrollment of a district in the current school year has declined by less than a specified percentage from the enrollment in the preceding school year, the amount which the district may budget and expend may be computed on the basis of the enrollment in the preceding year. The specified percentages are: 10% for districts in the smallest enrollment category (under 400 pupils), 7.5% for districts in the middle enrollment category, and 5% for districts in the largest enrollment category.

Penalty. If a district expends in any school year an amount for operating expenses which exceeds the budget limitations outlined above, the excess shall be deducted from amounts payable to the district during the next school year from the state school equalization fund.

18-Month Budget. All districts adopt a budget of operating expenses for an 18-month period, July of the current year through December of the following year. The months to that budgeted for the first 12 months shall not be less than 40% or more than 50%.

Appeals. The State Board of Tax Appeals may authorize a school district to increase its legally adopted budget of operating expenses upon a finding by the Board that:

1. The construction of new or additional school facilities causes an increase in operating expenses greater than the district is permitted to budget under the budget limitations.

2. The requirements of law to provide special education cause an increase in operating expenses greater than the district is permitted to budget under the budget limitations.

3. The requirements of law to pay out-district tuition for vocational education and the requirements of contractual agreements for payment of amounts for an area vocational school cause an increase in operating expenses greater than the district is permitted to budget under the budget limitations.

4. The requirements of law to provide transportation of students cause an increase in operating expenses greater than the district is permitted to budget under the budget limitations.

5. Operation of an existing program of cooperative special education at a level of financial support equal to that of the 1972–1973 school year causes an increase in operating expenses under the provisions of Sub. S.B. 92 and the assumption of such increase by the cooperating districts, including the sponsoring district, is agreed upon, subject to appeal.

No appeal shall be made under items 4 and 5, above, after August 1, 1973.

In addition, the Board of Tax Appeals may authorize a district to levy a property tax each year for the purpose of maintaining an existing program for transportation of pupils equal to that of the 1972–73 school year, to the extent that the same cannot be financed under appeal reason 4, above. The amount of such levy is limited to the difference between the amount of transportation aid the district would have received in 1972–73 if the revised transportation aid formula in Sub. S.B. 92 had been in effect that year and the amount budgeted for transportation in 1972–73 in the general fund of the district. No appeal under this provision shall be made after August 1, 1973.

Property tax levy for operating expenses

Within the budgetary limitations prescribed by the new law, the board of any school district may levy property taxes for operating expenses. There is no other restriction on the amount of such levy or on the tax rate for the district general fund. School districts are not covered by the "tax lid" law (1973 Sub. S.B. 11).

Special program funds

Sub. S.B. 92 creates the following special program funds of school districts: special education, vocational education, driver training, food service, and transportation. All moneys received by a district for these programs shall be deposited in the respective funds and all expenditures for these programs shall be paid from the respective funds, not from the general fund. Miscellaneous revenues of a district (such as interest earnings), not required by law to be credited to a specific fund, shall be deposited in one of the aforementioned funds or in the capital outlay fund. The existing social security and capital outlay funds are continued without change.

Transfers may be made from the district general fund to the capital outlay, transportation, special education, food service, driver training, or vocational educational funds. Any such transfer shall be an operating expense in the year the transfer is made.

The authority of the district board of education to levy 2 mills for vocational education programs and for payment of out-district tuition for vocational education and to levy 1.5 mills for special education is continued by Sub. S.B. 92. Proceeds from the latter levy must first be used for mandated special education programs under K.S.A. 72–933, as amended, and any remaining amount shall be used for other approved special education programs.

SPECIAL STATE LEGISLATION FOR THE FORT LEAVENWORTH SCHOOL DISTRICT

COMPANION LEGISLATION

Two other bills enacted by the 1973 Legislature are companions to Sub. S.B. 92.

S.B. 583 establishes a budget limitation on and appropriates $700,000 (not to exceed $291 per pupil) from the state general fund to the Ft. Leavenworth school district. Because of the unique characteristics of that district, it was excluded from the provisions of Sub. S.B. 92.

H.B. 1583 makes the technical changes in numerous statutes necessary to carry out the provisions in Sub. S.B. 92 requiring that proceeds from fines, penalties, and forefeitures for violation of state laws shall be remitted to the state for deposit in the state school equalization fund. Such proceeds no longer will be credited to the county school fund. This bill takes effect on June 1, 1973, after its publication in the official state paper.

ESTIMATED INCREASE OR DECREASE IN STATE AID FOR SCHOOL DISTRICTS WHICH RECEIVE PUBLIC LAW 874 AID

USD No.	District name	1973 impact aid estimate Public Law 874 (fiscal year 1973)	State assistance last year (1973) general State and supplemental aid (1972–73)	State assistance (1974) estimated aid and income tax (1973–74)	Increase in State assistance 1974 increase or decrease in State aid
101	Erie-St. Paul	15,355	359,177	519,818	160,641
203	Piper	1,536	117,950	301,665	183,715
204	Bonner Springs	1,191	506,449	1,184,882	678,433
205	Leon	932	167,861	264,235	96,374
207	Fort Leavenworth	927,813	510,017	700,000	189,983
211	Norton	4,567	293,914	468,811	174,897
230	Spring Hill	6,570	125,628	339,633	214,005
231	Gardner	28,753	238,202	334,126	95,924
232	DeSoto	99,981	311,082	823,544	512,462
233	Olathe	66,584	895,398	2,043,995	1,148,597
244	Burlington	20,589	187,984	283,632	95,648
246	Arma	2,215	180,380	300,179	119,799
247	Cherokee	8,318	244,124	443,543	199,419
248	Girard	1,768	272,888	405,376	132,488
250	Pittsburg	10,525	763,204	1,066,227	303,023
259	Wichita	630,523	11,682,014	23,608,855	11,926,841
260	Derby	1,000,855	1,306,567	2,262,161	955,594
261	Haysville	76,021	851,269	1,943,169	1,091,900
262	Valley Center	10,444	462,686	800,669	337,983
263	Mulvane	54,236	357,015	723,874	366,859
264	Clearwater	4,923	170,344	373,067	202,723
265	Goddard	16,784	326,505	890,825	564,320
266	Maize	3,632	198,305	474,609	276,304
268	Cheney	3,391	128,962	235,954	106,992
272	Cawker City	25,294	207,668	270,960	63,292
277	Burr Oak	2,387	48,526	71,081	22,555
278	Mankato	11,650	104,259	206,417	+102,158
287	Pomona	10,646	185,607	265,115	79,508

USD No.	District name	1973 impact aid estimate Public Law 874 (fiscal year 1973)	State assistance last year (1973) general State and supplemental aid (1972–73)	State assistance (1974) estimated aid and income tax 1973–74)	Increase in State assistance 1974 increase or decrease in State aid
289	Wellsville	2,997	177,497	325,204	147,707
290	Ottawa	10,502	591,149	837,336	246,187
305	Salina	586,522	2,212,488	3,315,392	1,102,904
307	Ell-Saline	31,740	54,023	108,477	54,454
312	Haven	1,799	190,389	462,638	272,249
320	Wamego	13,724	279,840	432,897	153,057
323	Westmoreland	4,066	178,979	312,323	133,344
324	Kirwin	8,607	44,736	66,118	21,382
331	Kingman	379	248,727	167,073	(−81,654)
337	Mayetta	18,986	148,111	323,429	175,318
339	Winchester	3,181	142,705	231,483	88,778
340	Meriden	9,022	152,099	341,214	189,115
341	Oskaloosa	17,446	144,701	216,096	71,395
342	McLouth	3,285	129,724	227,505	97,781
343	Perry	19,502	218,520	415,080	196,560
348	Baldwin	10,760	181,499	349,216	167,717
353	Wellington	15,391	527,311	763,554	236,243
356	Conway Springs	4,217	135,366	239,069	103,703
357	Belle Plaine	15,158	133,684	318,340	184,656
358	Oxford	5,669	130,242	192,563	62,321
367	Osawatomie	6,253	279,314	558,725	279,411
368	Paola	6,051	396,915	550,462	153,547
375	Circle	6,794	302,229	519,225	216,996
377	Effingham	11,374	236,957	428,449	191,492
378	Riley	51,224	110,108	180,398	70,290
379	Clay Center	37,211	392,093	548,999	156,906
383	Manhattan	111,452	980,154	1,367,099	386,945
384	Randolph	64,829	59,958	2,483	(−57,475)
385	Andover	19,238	245,559	540,225	258,666
389	Eureka	30,017	233,107	324,568	91,461
394	Rose Hill	17,558	153,918	388,179	234,261
396	Douglass	9,855	142,212	286,034	143,822
420	Augusta	16,031	465,376	852,698	387,322
409	Atchison	23,508	510,667	817,792	307,125
416	Louisburg	6,633	136,986	238,885	101,899
417	Council Grove	12,044	242,976	376,666	133,690
420	Osage City	7,819	182,331	318,682	136,351
421	Lyndon	7,768	96,678	159,062	62,384
430	Horton	2,091	203,683	360,409	156,726
434	Santa Fe Trail	22,782	240,902	459,024	218,122
435	Abilene	18,311	475,532	655,929	180,397
437	Washburn	902,564	733,888	793,796	59,908
439	Sedgwick	2,199	139,677	306,545	166,868
446	Independence	36,234	663,713	978,896	315,183
447	Cherryvale	7,640	200,356	389,867	189,511
449	Easton	22,882	161,162	280,696	119,534
450	Tecumseh	30,853	543,064	1,258,260	715,196
453	Leavenworth	303,825	1,278,384	2,171,003	892,619
454	Burlingame	5,257	91,596	200,781	109,185
456	Melvern	15,137	89,176	189,395	100,219
458	Basehor	5,144	260,838	506,372	245,534
461	Neodesha	567	193,943	344,493	15,5500
462	Burden	6,071	79,985	69,101	(−10,884)
463	Udall	5,819	92,833	192,392	99,559
464	Tonganoxie	9,869	254,702	482,490	227,788
469	Lansing	50,702	245,164	489,200	244,036
470	Arkansas City	13,660	742,191	1,287,162	544,971
473	Chapman	58,915	408,155	572,469	164,314
475	Junction City	1,549,512	1,784,538	2,229,080	444,542
481	Hope	10,447	140,178	257,697	117,519
487	Herington	8,721	234,706	367,526	132,820
491	Eudora	17,424	126,427	332,950	206,523
493	Columbus	7,706	382,413	398,091	15,678
497	Lawrence	55,901	1,326,753	1,677,874	351,121
500	Kansas City	102,292	5,616,580	11,993,154	6,376,574
501	Topeka	216,239	4,037,984	7,998,161	3,960,177
503	Parsons	46,778	637,989	1,010,469	372,480
504	Oswego	6,330	150,586	214,929	64,343
505	Chetopa	2,504	101,536	175,823	74,287
506	Altamont	16,491	405,550	637,047	231,497
510	Powhattan	23,120	30,077	146,090	116,013
512	Shawnee Mission	270,293	6,375,079	10,716,040	4,340,961
	Total	8,130,375	60,842,653	109,817,271	48,974,618

STATEMENT OF SENATOR DOMINICK

As ranking minority member of the Subcommittee on Education, I support the amendment introduced by the gentleman from Kansas, Mr. Dole, and three cosponsors. I understand that this amendment also has the support of the Administration.

Adoption of this amendment to PL 874, the education impact aid law, will take care temporarily of an inequitable situation and give the Education Subcommittee an opportunity to act with care and deliberation on a revision to the statute. As the author of S-1813, which seeks to make certain long-needed improvements to the impact aid program, I welcome the opportunity to revise Sec. 5(d)(2), to which the pending amendment is directed, to meet changing needs.

STATEMENT OF SENATOR PEARSON

ONE YEAR SUSPENSION OF SECTION 5(d)(2)

I want to express my strongest support for efforts to provide relief for states which have enacted equalization laws for school finance, but which will be penalized due to the wording of Section 5(d)(2) of Public Law 874. As some of my colleagues may know, the Office of Education has ruled that Kansas may not receive impact aid in Fiscal Year 1974 because its recently passed school district equalization act violates the provisions of Section 5(d)(2).

Section 5(d)(2) was enacted in PL 90–576. In essence, it terminates impact aid to all districts in any State which uses federal payments in determining the level of state assistance for any district. This section was enacted with good intentions. Prior to its passage, many states had reduced state aid by an amount equal to all or part of 874 payments. This action was counter-productive to the purpose of PL 874, namely the effort by the federal government to compensate school districts with substantial federal activity which did not receive the benefits of the tax base associated with that activity.

Recent events, however, have placed Section 5(d)(2) in a totally new perspective. Pursuant to Court cases mandating school financing equalization, many states have passed laws which include 874 funds in computations intended to yield more equal state payments. In Kansas, *Caldwell v. Kansas* held that the state School Foundation Act violated the equal protection guarantees of both the Kansas Constitution and the Fourteenth Amendment to the United States Constitution. Holding that the Kansas system of school finance caused education to be adequate or inadequate by "the caprice of the wealth or local tax base within a district," the Court restrained and enjoined the operation of the existing school finance scheme and prohibited the allocation of funds on the basis of existing law.

Reacting to this mandate, Kansas enacted a School District Equalization Act in the form of Senate Bill No. 92, during the past session of the Kansas legislature. The most important aspect of this bill is that it creates a power equalization formula, designed to provide more aid to districts with low "wealth" per pupil than to districts with higher "wealth" per pupil. Wealth, however, is a factor of local effort: state aid is provided if the required local effort does not produce enough revenue to finance a district's general fund budget. This formula, albeit simplified for present purposes, considers PL 874 receipts a part of local effort, just as are the district's share of the 2-mill county school foundation tax levy, the district's share of an intangible tax, and a factor represented by district wealth times the district local effort rate.

Because 874 receipts are counted as local effort, districts with substantial 874 funds receive more under the school equalizing formula than they would without this type of computation. Consider three school districts which have received relatively large amounts of PL 874 funds. Even with such funds computed as district revenue resources, the final computer application of the general state aid formula indicated the following increases in state aid for 1973–74 over actual aid in the past under the prior law:

Junction City	$1,006,812
Derby	1,136,705
Washburn	510,296

To sharpen the analysis of this situation, the Kansas Legislative Research Department estimates that these same districts would have no general fund tax levy if PL 874 funds were not considered as district revenue resources.

These figures indicated that the spirit of Section 5(d)(2) is not being violated. The state is not offsetting federal payments against state aid. Rather, a serious attempt is made to evaluate the financial capabilities of local school districts and to achieve an equitable means of distributing state funds.

I believe that Kansas has enacted a new school finance law which is designed to improve the equalization of local tax efforts and of expenditures per pupil. There was no intention to discriminate against districts which receive 874 funds, and to continue enforcement of 5(d)(2) would seriously undermine this effort.

One other problem results from literal enforcement of Section 5(d)(2). The Fort Leavenworth, Kansas, school district is located on federal property and serves 100 per cent federal 3–A pupils. There are no local pupils and there are virtually no local resources to support this district. In recognition of this fact, the Kansas Legislature exempted the school district from the provisions of the school equalizing formula, and provided it with a direct appropriation of $700,000 from the state general fund. Nonetheless, because of the wording of 5(d)(2), the entire state is precluded from receiving state aid if 874 funds are included in the computation of the level of state aid for any one district. This action will cause the Fort Leavenworth district to terminate operations—its resources are totally inadequate without 874 funding.

As early as 1969, the Batelle Memorial Institute, in its study of school assistance in federally affected areas, found that the "effects of the prohibition against offsetting of PL 874 payments tend to reduce the effectiveness of attempts by the States to provide relatively equal education opportunities with limited State funds and to discourage States without equalization formulas from adopting them." The prediction has now come true.

I believe that an emergency exists, and that action must be taken now. This is an opportunity to start. In the process, we can

avert potentially disastrous consequences in Kansas and other states which have made good faith efforts to achieve school financing equalization. I believe that the amendment which my colleague, Mr. Dole, proposes to offer is an effective means of avoiding school finance crises in these states.

In particular, I want to emphasize that the one-year exemption from the provisions of 5(d)(2) permits time for the Education and Labor Committee in the House and the Labor and Public Welfare Committee in the Senate to achieve a permanent revision of Public Law 874. It in no way detracts from those efforts but merely provides additional time for them to accomplish this task. I hope that the amendment will be adopted.

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

Mr. CURTIS. Mr. President, I yield 10 minutes under the bill to the distinguished Senator from North Dakota (Mr. YOUNG).

Mr. YOUNG. Mr. President, I believe the distinguished Senator from Kansas has very ably explained the problem involved. Both of our States passed special legislation during their last session, setting up a foundation payment similar to an equalization fund. Under this program a school that gets Federal impacted funds, in some cases, or in many cases, will get less funds than they got in the past. The Office of Education has warned our State that unless the State law was repealed, or changed they no longer would be eligible for impact funds.

This amendment could if approved take care of our problem for this fiscal year. It could do no harm to the other States and could avert a special session in our two States.

I would like to read a telegram which I sent to our Governor and the superintendent of public instruction, which explains the problem to some extent. The telegram was dated September 20, 1973. We had an exchange of telegrams before this:

SEPTEMBER 20, 1973.

Hon. ARTHUR A. LINK,
Governor, State of North Dakota,
Bismarck, N. Dak.
Hon. M. F. PETERSON,
Superintendent, Department of Public Instruction, Bismarck, N. Dak.:

Reurtel, your telegram didn't answer the questions posed by me in my telegram of September 18.

If section 5(d)(2) is repealed and N.D. senate bill 2026 goes into full effect, how much less money from all sources will federally impacted school districts have available to them? I understand a reduction is made to offset at least a portion of Federal impact funds. For example, how much less money from all sources will Grand Forks, Minot, Riverdale, New Town, Parshall, Dunseith and other schools with similar problems receive? Your telegram didn't answer this and I need to have this information before supporting repeal of the provisions of the Federal law which apparently would adversely affect many school districts in North Dakota.

I have a special concern since I was successful, after a long and hard fight, in getting my amendment cosponsored by Senator HRUSKA approved which provides 100 percent of entitlement to those school districts where 25 percent or more of the children live on federal property. In the case of Grand Forks and Minot, the local school districts are operating schools on the military bases and declared in past years that they couldn't continue to educate these children unless they received 100 percent of entitlement under impact funding. Understand they will have a similar problem now if section 5(d)(2) is repealed. Understand many other schools will be similarly affected. What I need to know is how much less will be available from all sources to these schools under your proposal. Understand some of the major school systems in North Dakota oppose your proposal. Regards

MILT YOUNG,
U.S. Senator.

I can understand their problem. They operate a school on the base and they have to transport high school children back and forth from the base. They have several times said that they could not continue the operation of these schools unless they received a 100 percent entitlement of impact funds. The proposal which they oppose, of course, is the repeal of this section.

Mr. President, I received a letter dated September 21, 1973, which reads as follows:

STATE OF NORTH DAKOTA,
Bismarck, N. Dak., September 21, 1973.

Hon. MILTON R. YOUNG,
U.S. Senator,
Washington, D.C.

DEAR SENATOR YOUNG: Attached are figures you requested in your telegram of September 20 for six school districts showing the increase in each case following the enactment of North Dakota Senate Bill 2026. In addition, each of these school districts will receive federal impact payments. The amount of federal payments are not available at this time and will not be available until after the first of the year. Therefore, we can only report the amount of increase to each school district from the state of North Dakota.

Amending Section 5(D)(2) does not reduce federal impact payments. This section now requires North Dakota to make state payments to some school districts when these districts are already receiving these same payments from the federal government. The Dole amendment removes this requirement. It assures that the district receives this payment only from the federal government. It assures the amount of aid the district is entitled to receive.

Perhaps some districts wish to continue receiving duplicate payments. This cannot be considered equalization.

Sincerely yours,

ARTHUR A. LINK,
Governor.
M. F. PETERSON,
Superintendent of Public Instruction.

Mr. President, I ask unanimous consent that the tabulation, including the figures referred to in the foregoing letter and chart, be printed at this point in the RECORD.

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

School district	1972–73 State and local taxes	S. 2026 and local taxes	Amount of increase
Grand Forks		$7,628,016.55	
Amount of duplication received in Federal impact payments		−289,385.19	
Total	$6,322,191.09	7,338,631.36	$1,016,440.27
Minot		6,170,816.97	
Amount of duplication received in Federal impact payments		−282,701.11	
Total	4,803,930.15	5,888,115.86	1,084,185.71
Riverdale		171,248.47	
Amount of duplication received in Federal impact payments		−17,397.13	
Total	101,370.37	153,851.34	52,480.95
New Town		$491,715.17	
Amount of duplication received in Federal impact payments		−18,565.37	
Total	$339,390.50	473,149.80	$133,759.30
Parshall		351,580.70	
Amount of duplication received in Federal impact payments		−7,323.74	
Total	281,553.78	344,256.96	62,703.18
Dunseith		418,664.72	
Amount of duplication received in Federal impact payments		−18,078.53	
Total	290,154.56	400,586.19	110,431.63

Mr. YOUNG. Mr. President, somehow or other I fail to quite understand the chart. However, I gather from the chart that the Grand Forks School District will receive $289,385 less if the section of the Federal law is repealed.

The Minot School District which operates another school at the Minot Air Force Base, would receive $282,701 less. That is out of a total budget of $6,170-816.97. That is a sizable reduction for a school of that size.

Mr. President, taking everything into consideration, including the letter and chart from Governor Link and the superintendent of public instruction in my State, I am going to vote to support the amendment. It offers a way out of a bad situation we in North Dakota find ourselves.

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from North Dakota.

Mr. CURTIS. Mr. President, I yield 3 minutes from the bill to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. BURDICK. Mr. President, I rise in support of the amendment. The Office of Education has declared North Dakota ineligible to receive any Federal impact aid this fiscal year, creating a true educational crisis for the State.

Ineligibility is said to result from a conflict between section 5(d)(2) of Public Law 81–874 and a 1973 North Dakota law—known as Senate bill 2026. This

measure completely reworked the North Dakota education foundation program. One section provided:

In determining the amount of payment due school districts for per-pupil aid under this section (providing support to elementary and secondary education in the State), the following shall be subtracted from the amount of such aid:

That amount in dollars of the state group rate for Title I of Public Law 81–874, 81st Congress represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 874 payments.

According to the Office of Education, this North Dakota provision runs counter to section 5(d)(2) of Public Law 874, because it has the effect of subtracting from the amount of assistance provided to a local educational agency by a State, a portion of the amount paid that school district under Public Law 874. Section 5(d)(2) then operates to make North Dakota ineligible to receive Public Law 874 payments.

Mr. President, I ask unanimous consent that a copy of the August 29, 1973, letter to me from Peter Muirhead, Acting U.S. Commissioner of Education, which summarizes the position of the Office of Education on this matter, be printed at this point in the RECORD.

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

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., August 29, 1973.

Hon. QUENTIN N. BURDICK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BURDICK: Thank you for your letters of July 30 and August 13 on behalf of H. J. Snortland, Assistant Superintendent, Department of Public Instruction, North Dakota, regarding the newly enacted State aid program which may affect payments to local educational agencies in the State pursuant to Public Law 81–874.

Section 5(d)(2) of Public Law 874 provides as follows:

"No payments may be made during any fiscal year to any local educational agency in any State which has taken into consideration payments under . . . (P.L. 874) in determining the eligibility of any local educational agency in that State for State aid (as defined by regulation), or the amount of that aid, with respect to free public education during that year or the preceding fiscal year, or which makes such aid available to local educational agencies in such a manner as to result in less State aid to any local educational agency which is eligible for payments under . . . (P.L. 874) than such local educational agency would receive if it were not so eligible." (Section 5(d)(2); 20 U.S.C. 240 (d)(2))

The pertinent portion of the recently enacted North Dakota statute (formerly Senate Bill No. 2026) provides:

"In determining the amount of payment due school districts for per-pupil aid under this section (providing support to elementary and secondary education in the State), the following *shall be subtracted from the amount of such aid:*

"• • • That amount in dollars of the state group rate for Title I of Public Law 81–874, 81st Congress, represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 874 payments." (emphasis supplied)

It is our understanding that the above State law would have the effect of subtracting from the amount of assistance provided to a local educational agency by a State, a portion of the amount paid under the provisions of P.L. 874. Thus a school district receiving no P.L. 874 payment would receive the full proceeds from a twenty-one mill equalization levy, while a district receiving a P.L. 874 payment would receive a lesser portion of the equalization levy. Under these circumstances, Section 5(d)(2) of P.L. 874 would permit no payments to be made under that Act to any local educational agency in the State of North Dakota.

Of course, the ultimate responsibility for the interpretation and application of the State provision in question is vested in officers of the State of North Dakota. There may exist, for example, other provisions of State law which could lead State officers to interpret or apply the statute in a manner different from that described above. However, we are not currently aware of any basis for such interpretation or application.

I have been informed that in September 1972, Mr. Snortland, in replying to a routine request from the Office of Education for State aid information, inquired about the effects a certain proposed State statute, Senate Bill No. 2026, might have upon P.L. 874 payments in the State. The Division of School Assistance, which is responsible within the Office of Education for the impact aid program, received copies of the proposed legislation from several local school district superintendents from North Dakota, who also expressed concern about its possible effects.

A preliminary review of the bill indicated that its passage would result in Section 5(d)(2) requiring that no payments be made to local educational agencies in the State. Mr. Snortland, in telephone conversations in September, October and December with Mr. Jack Thomas of the Division of School Assistance, was so informed.

The final review of the proposed legislation, confirming the conclusions of the preliminary review, was completed on March 12. On the same date, Mr. Snortland was informed of this fact in a telephone conversation with Mr. Thomas. Mr. Snortland indicated that the bill had not yet been passed by the legislature. The substance of the oral communication was also repeated in a letter to Mr. Snortland dated March 15.

The current pertinent State law provision was passed and approved by the Governor on March 23, 1973. There appears to be no change in the text of the provision from that reviewed prior to March 12. Consequently, Mr. Snortland has been informed that, if the State legislation is interpreted and implemented in such a way that it has the effects described above, no payments may be made pursuant to P.L. 874 in Fiscal Year 1974 to any local educational agencies in the State of North Dakota.

Since the Senate Bill was merely a proposed statute, which might have been amended or abandoned in the legislative process and since many other problems were pressing upon our limited staff at the time, we were unable to make a final formal determination with regard to the matter as promptly as we would have wished. Apologies have, however, been conveyed to Mr. Snortland for the delay between the date of his inquiry and that of our final response.

In his letter to you of August 3, 1973, Mr. Snortland indicates his belief that the U.S. Office of Education may not understand that "we are not planning to deduct payments from 874 applicants." The Director of the Division of School Assistance, Mr. Gerald Cherry, would be happy to discuss further with Mr. Snortland his understanding of the effects of the bill.

Sincerely,

PETER P. MUIRHEAD,
Acting U.S. Commissioner of Education.

Mr. BURDICK. Mr. President, let me be more specific. For the 1973–74 school year, North Dakota has requested a State rate of $481.65 per pupil to be paid districts having students whose parents both live and work on Federal property. The new North Dakota law provides that a portion of the Federal payment will be considered in allocating State funds.

North Dakota has a mandatory 21-mill levy which is included in computing the State rate per pupil. This amounts to about one-fifth of the State rate. The State allocates the proceeds from the 21-mill levy as a part of its State aid program. Section 5(d)(2) of Public Law 874 operates in such a fashion as to require that impacted districts receive a Federal payment which includes an amount equal to the 21-mill levy and also receive a State aid allocation from the 21-mill levy. Thus, the aid is received twice—once from the Federal Government and once from the State.

The new North Dakota law specifies that the amount which the school districts get from the 21-mill levy shall be subtracted from the State aid allocation. The State aid allocation to a Federal impact school is reduced by an amount equal to about one-fifth of the Federal impact payment.

An example is the Grand Forks Public School District, which is heavily impacted by students whose parents live and work on the Grand Forks Air Base. The district expects about $1,600,000 as a Federal impact payment. However, because the new State aid program eliminates the duplicate payment of some $289,000 to that district, Section 5(d)(2) of Public Law 874 will deny the payment of any Federal impact aid to the district.

North Dakota will be denied more than $5 million in impact aid this year. Kansas, as you have heard, has a similar problem.

I am confident that Congress will develop a permanent, comprehensive solution to this problem. However, the situation in North Dakota is extremely pressing. What we are attempting to do today is suspend the operation of section 5(d)(2) to permit the disbursing of these needed funds until the Federal policy has been settled by permanent legislation.

Mr. ALLEN. Mr. President, the Senator from Kansas raised a question concerning the amendment. I understand the amendment has no application to the school lunch program but does have application to the impacted aid areas.

Through some quirk in recently passed laws in Kansas and North Dakota, the respective States have been unable to receive the impacted aid to which they would otherwise have been entitled. Is that correct?

Mr. DOLE. The Senator is correct.

Mr. ALLEN. However, the Senator's amendment would have no effect on any waiver of plans in this fiscal year, concerning the laws of States of Kansas and North Dakota.

Mr. DOLE. The Senator is correct. I might add that action taken by a special session of our State legislature would not solve the problem, since the State

would, without the time for comprehensive action, be forced to revert to its old State assistance law which had been ruled unconstitutional, so at the present time Federal action is the only adequate remedy we have. This is why I bring up this urgent proposal.

Mr. ALLEN. The study indicates that North Dakota and Kansas would get no less under this program than they would have received had the laws with respect to those States been changed.

Mr. DOLE. That is correct. There is no additional appropriation. It merely permits the payment of what is already theirs.

Mr. ALLEN. So sometime during this fiscal year Kansas and North Dakota would have to change their laws to make them compatible with Federal law on this subject.

Mr. DOLE. The Senator from North Dakota and I have discussed this matter briefly today along with the Senator from Rhode Island. We believe this will give the State governments time to enable them to take another look at their situation and also give us an opportunity to deal in a more comprehensive fashion with the conflict that is developing between the law which assures that impact aid funds do actually benefit the impacted district, and on the other hand, the effort of the States to enact effective and equitable equalization statutes.

Mr. ALLEN. I thank the distinguished Senator.

Mr. YOUNG. The same amount as in the past will be paid to each of the States, but it is true that the highly impacted schools in Grand Forks and Minot are ones which will be receiving less money under the new State laws. That is why this law has to be temporarily suspended, so far as our States are concerned. Either that or we will have to have a special session to change our law.

Mr. ALLEN. That will have to be done unless some different method can be devised.

Mr. YOUNG. That is correct. For many years, the Senate Appropriations Committee has been determining the formula under which impact funds would be paid, from 75 percent up to 100 percent. I think it will be necessary to look into the whole impacted funds program and to make some changes.

Mr. ALLEN. I thank the Senator from North Dakota.

Speaking for the committee, we would have no objection to the adoption of the amendment and taking it to conference, to see what can be worked out.

Mr. PELL. Mr. President, I am in favor of the amendment proposed by Senators BURDICK and DOLE respecting the consideration of impact aid funds in State aid formulas. Under present law, section 5(d)(2) of Public Law 874 places a penalty on any State which takes impact aid payments into consideration in its allocations of State aid for free public education.

This provision was adopted in 1968 in order to prevent States from substituting Federal funds for State funds in their State aid programs. At that time, several States were deducting 874 payments from State aid payments to local educational agencies. This practice was found unconstitutional and inconsistent with Federal law by several courts, and, therefore, the Congress placed the section 5(d)(2) penalty in the law in order to enforce the decisions of the Federal courts.

Since 1968, the States have been developing State equalization formulas which are designed to equalize expenditures for education among local educational agencies. In doing so, I understand a few States have wanted to consider 874 payments to be local resources in computing local ability to fund education. This has not been possible because of the penalty language in section 5(d)(2) of Public Law 874.

Senator BURDICK has made presentations to the Subcommittee on Education indicating that the penalty provision acts unfairly against States attempting to equalize expenditures. For this reason, the Subcommittee on Education will study the effect of such section 5(d)(2) and, if merited, recommend changes in that provision designed to foster greater equalization.

As I understand the amendment proposed by the Senators from Kansas and North Dakota, it would suspend the operation of section 5(d)(2) of Public Law 874 for fiscal year 1974. In the meantime, it is hoped that the Congress can enact amendments to that provision and give the States an opportunity to modify State law accordingly.

The PRESIDING OFFICER. Do the Senators yield back the remainder of their time?

Mr. ALLEN. I yield back the rest of my time.

Mr. YOUNG. 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.

The amendment was agreed to.

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

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

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

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

Mr. STEVENS' amendment is as follows:

On page 2, line 1, strike out "sentence" and insert in lieu thereof "sentences".

On page 2, line 5, between the period and the quotation marks, insert the following: "Notwithstanding any other provision of this Act, the amount of any funds which would otherwise be paid under sections 4 and 5 to the State of Alaska during any fiscal year shall be increased by an amount equal to 25 per centum."

On page 2, between lines 5 and 6, insert the following:

(c) Section 10 of the National School Lunch Act is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision of this Act, the amount of any funds which would otherwise be disbursed to any school under this section in the State of Alaska in any fiscal year shall be increased by an amount equal to 25 per centum."

On page 4, line 20, between the period and the quotation marks, insert the following: "Notwithstanding any other provision of this Act, the amount of any funds which would otherwise be paid under this section to the State of Alaska during any fiscal year shall be increased by an amount equal to 25 per centum."

On page 4, between lines 20 and 21, insert the following:

"(d) Section 4(f) of the Child Nutrition Act of 1966 is amended by adding at the end thereof a new sentence as follows: "Notwithstanding any other provision of this Act, the amount of any funds which would otherwise be paid under this section to any school in the State of Alaska in any fiscal year shall be increased by an amount equal to 25 per centum.".

Mr. STEVENS. Mr. President, with the unprecedented increase in food costs across the Nation, the action to increase the school food program reimbursement rates is greatly needed. As very few agricultural products are locally grown in my State of Alaska, we have long known the effect of high food costs on our budgets. With the general inflationary trend of the economy, food products in Alaska have not only increased by the amount of increase in agricultural products, but also by the higher costs of transportation and labor.

Last year the Fairbanks North Star Borough School District was losing 17 cents on every free type A lunch—this loss had to be absorbed by those children who could afford to pay for their lunch. Last year the median figure for Federal support for school lunch programs was 25 percent—in Fairbanks it was only 17 percent. As Fairbanks is our second largest city in Alaska, many areas of the State experience costs substantially higher, for one of the unique features of Alaska is that it is cheaper to live in an urban area than in a rural one.

For these reasons I am introducing an amendment which would increase the reimbursement rates for all school food programs by 25 percent for Alaska. I ask that my colleagues recognize our responsibility to provide school food programs for all students on an equitable basis.

Mr. President, I have discussed this matter with the manager of the bill and the Senator from Nebraska.

I would point out that if you examine the law that was in effect prior to last year, the Secretary of Agriculture did in fact have discretion to increase these allowances. With the law that is in effect today, that is impossible. However, the Department of Agriculture does allow an increase in the amount of income to determine eligibility, and that is 20-percent higher than for the rest of the country, so that we have, in effect, 25 percent more students to provide free lunches to, but we get the same amount of money that the other States get.

For instance, we served 269,040 lunches under the national school lunch program—I am quoting from page 8 of the committee report—and received $111,541. Our sister State of Wyoming, which is approximately the same size as ours, served less than half the number of lunches, 117,944 compared to our 269,040 lunches, and they received more money. They received $111,797, and we received $111,541.

That is the problem with this program. When you approach the magnitude of the cost of living that we have, you find some real disparities, like that which determines that eligibility is to be allowed on a cost of living basis making people whose annual income is 20-percent higher than the standard in what we call the South 48 States eligible, but at the same time giving us the same amount of money that the other 48 States get, so that we thus have an unfair circumstance.

I am told that if you use the urban United States as a standard index of 100, while metropolitan areas generally in the country would have a cost of living index of 102 and nonmetropolitan areas would have 93—Austin, Tex., for example, would have 88 and Nashville Tenn., would have 91—Anchorage, Alaska, would have an index of 153, and that is the lowest cost of living we have in the State.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question or two?

Mr. STEVENS. I am happy to yield.

Mr. CURTIS. Does the Senator's amendment relate to more than one State?

Mr. STEVENS. It relates only to Alaska. It relates to providing discretion to pay up to 25-percent higher than the standard that would apply to the other States.

Mr. CURTIS. This is a cost differential by reason of the difference in the level of the cost of living?

Mr. STEVENS. Not only that, but also that we have already recognized that in the eligibility.

For instance, a family of three must have an income of $3,450 or less to qualify for a reduced price lunch in the lower 48. In Anchorage, the limit is $4,170, so that we have an expanded eligibility area, but we do not have an expanded rate of compensation to make up for our increased costs.

Mr. CURTIS. For the record, what precedents are there for giving special treatment to Alaska in various Federal programs by reasons of their unusual prices there?

Mr. STEVENS. Immediately there comes to mind the fact that we pay our Government employees 25 percent more as a cost-of-living differential.

Mr. CURTIS. Federal employees?

Mr. STEVENS. Federal employees. On our housing programs, we are allowed 25 percent higher in terms of the loan eligibility rate. There has been constant recognition by Congress of the fact that Alaska has the highest cost of living in the Nation, and that is what this amendment seeks.

Furthermore, I know that prior to the act of last year, the discretionary features of the school lunch program did in fact permit the Secretary of Agriculture to meet the cost. All we are seeking is a cost level, and obviously not to try to make any money out of the program.

While the Senator from Alabama was out of the Chamber, I pointed out that the problem is, as graphically shown in the chart on page 8 of the committee report, that my State receives less money than Wyoming in assistance under this program, and yet pays for twice as many lunches because of the eligibility factor.

I really hope that the Senator will take the amendment to conference. I would be happy if we could restore the discretion which the Secretary of Agriculture had previously. For reasons unknown to me, they sought to do away with that last year, and that is why, rather than take on the national problem, I have put in the amendment to take care of the Alaskan problem only.

Mr. ALLEN. Mr. President, I yield myself so much time as I may use.

Mindful of the problem that the State of Alaska has in this connection, with the high cost of living there, and also mindful, of course, of the high per capita income of the people of the State of Alaska, and mindful as to what sort of precedent we may be setting here, and that other States may come forward and say, "On account of our high cost of living we need a different differential," or that a State might come forward and say, "Our per capita income is so very low that we need more Federal assistance and less State and local assistance," in a Union of 50 States it is somewhat difficult to say that one rule will apply on a program of this sort in one State, but a more generous rule will apply to another State, so that 49 will follow one rule and the other State have a different rule.

But in view of the statement of the distinguished Senator, he being willing to get out of the conference the giving to the Secretary of discretion in this matter, it might be that something can be worked out in conference, and after conferring with the distinguished Senator from Nebraska, the ranking Republican member of the committee, in behalf of the committee we would agree to accept the amendment and take it to conference, to see what might be worked out.

Mr. STEVENS. I am indebted to the Senator from Alabama for his consideration. I do hope that will be the outcome.

I ask unanimous consent to have printed in the RECORD at this point the letter from the Fairbanks North Star School District which started this line of inquiry so far as I am concerned.

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

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT,
Fairbanks, Alaska, May 26, 1972.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: Since the Universal Child Nutrition and Nutrition Education Act, S. 2593 has been brought before the Senate, I would like to provide you with a little additional information with regard to the Alaska School Lunch Program.

Just yesterday I received a bulletin from our State School Food Coordinator indicating that the breakfast reimbursement rate was to be reduced from 15c to 5c and 20c for free breakfasts. We have had an extremely good breakfast program going here in Fairbanks this year and have been able to provide this breakfast for a charge of 25c in the elementary schools. With the 15c reimbursement, we were also able to provide the very needy students a free breakfast.

The new regulations not only reduce our total potential revenue; but also make it mandatory that we provide more free breakfasts. In addition to this, the poverty level for the State of Alaska has been raised and we will now have to provide more free lunches and breakfasts.

Our local school board has made it clear that they plan to put no money into the school food service program—it is to break even. This means that the middle income children will carry a greater portion of the program costs in the form of higher prices to those who can afford to pay.

The saddest part of the federal reimbursement plan is that the same rate of reimbursement is applied to all school districts. As an Alaskan you know that some adjustment needs to be made for the cost of living in the different areas of the country. In the autumn of 1971 urban family budgets were compared geographically by the Bureau of Labor Statistics. Urban United States would have an index of 100; while metropolitan areas would be 102 and nonmetropolitan areas 93. Austin, Texas was 88, Nashville, Tennessee, 91, and Anchorage, Alaska, 153 (Fairbanks is higher still); yet, we all will receive the same 5c reimbursement for breakfasts, or 20c for free breakfasts.

The food costs for our meals run about 31c with an additional 5½c in commodities to use for each meal. Our labor costs are 27c per meal. In our district other costs are also charged to the program which amount to 5c per meal. This includes electricity, repair of equipment, office supplies, new equipment, etc.

When we receive 46c for every free Type A lunch we have lost 17c and this 17c will have to be made up through an increased charge to every paying child. In Austin, Texas and Nashville, Tennessee that 46c would have paid for the meal.

In an article in *School Management*, dated February 1972, the median figure for percentage of federal support was 25 percent throughout the United States. In Fairbanks this year it is 17%. The median for state funds was 10 percent. In Fairbanks there are no state funds allowed for the local school districts which are not state operated or B.I.A.

Although Fairbanks has a mean level of income of about $14,000 per year, there are many families—in some of our schools as high as 16%—falling below the poverty level. In Anchorage, Alaska, $11.037.42 would be necessary to live on a lower level budget as calculated by the Bureau of Labor Statistics. $16,785.63 would be necessary to live on an intermediate budget.

Any assistance you can give us will be appreciated. If we can provide you with further information, we will be happy to do so.

Respectfully yours,
(MRS.) MARGUERITE STETSON,
Food Service Director.

Mr. STEVENS. I would be most willing and anxious to work with the committee to try to work it out, if there is any other way to achieve what I seek to achieve, and that is just a break-even point for the school districts in my State, so that they will not lose money by serving the so-called free lunches and breakfasts.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

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

Mr. STEVENS. 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 Alaska.

The amendment was agreed to.

The PRESIDING OFFICER (Mr.

HELMS). The bill is open to further amendment.

Mr. HATHAWAY. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. 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 the amendment will be printed in the RECORD.

The text of the amendment is as follows:

H.R. 9639

At the end of the bill add a new section as follows:

STATE ADMINISTRATIVE EXPENSES

SEC. 9. Section 7 of the Child Nutrition Act of 1966 is amended by inserting "(a)" immediately after "Sec. 7." and by adding at the end of such section a new subsection as follows:

"(b)(1) There are authorized to be paid for each fiscal year beginning with the fiscal year 1974, to State educational agencies an amount equal to 2 per centum of aggregated payments made to such agencies by the Secretary under the National School Lunch Act and the Child Nutrition Act of 1966 in the preceding fiscal year, to assist in the administration and supervision of the programs authorized under such Acts: *Provided,* That not less than 75 per centum of any funds used under this authority shall be directed to the employment of field nutrition supervisors and auditors who have a certificate of training in the subject areas or the equivalent in field supervisory or auditing experience: *Provided further,* That the funds expended under this section shall be used to supplement the existing level of administrative support services and expenditures therefor for the child nutrition programs in each State. Nothing in this subsection shall be construed to prohibit any State from utilizing for administrative expenses any funds otherwise made available to it under this Act or the National School Lunch Act to the extent that the use of such funds for such purpose is necessary for the effective operation of the programs under such Acts.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

Mr. HATHAWAY. Mr. President, the gist of the amendment is that it adds on to the authorization an amount equal to 2 percent of what was actually expended in the last fiscal year for administrative funds. This does not take the 2 percent out of the money being allocated by the bill for the substantive provisions of the act.

It has come to my attention that many States, particularly the small States such as Maine and others not so well off, have not been able to use the administrative funds provided for under the act because they need all the money to purchase food for the children. This amendment, therefore, would be of some help to those States that need the money to administer the program properly.

The program, although it is good in design, will not work out very well if we cannot administer it properly. At the present time, many States are using volunteers and underpaid staffs in order to carry out the program. This 2 percent, which amounts to, this year, less than $20 million—19.5 million, based on the 2 percent of the sum of $975 million expended last year—is not a large amount, yet it would be of considerable help in administering the law.

This was an amendment that was incorporated in the bill which was sponsored by the Senator from Minnesota (Mr. HUMPHREY) and many of us, but was, for some reason, dropped from committee consideration.

I would hope that the committee would reconsider it at this time—especially when it is an add-on and does not come out of the funds to purchase food—and will acquiesce in this amendment so that the Senate can take it to conference with the House.

Mr. HUMPHREY. Mr. President, will the Senator from Maine yield?

Mr. HATHAWAY. I yield.

Mr. HUMPHREY. The Senator is correct that the proposal he advances today was a part of my bill, S. 1063, which the Senator helped with and cosponsored. Assistant Secretary of Agriculture Yeutter, in general, supported this proposal which the Senator from Maine has just advanced. I have Mr. Yeutter's testimony before me, in which he said in part:

For the present, we recommend that S. 1063 be amended to provide a more general authorization for State administrative expenses, training of nutrition program workers and administrators and special developmental projects. Specifically, we would propose that States be permitted to use up to two percent of the funds expended for child nutrition programs in the previous fiscal year to finance projects in those three areas. This would enable States to better allocate available resources to meet their needs.

Now here is the important sentence:

Needless to say, such an authorization—

Which is what the Senator is seeking to do here—

—would presently be subject to the appropriation process; and budget proposals would, as now, be subject to approval by the Secretary of Agriculture.

So there is general support for the need of a larger amount to be made available for administrative purposes and I think that is what the Senator is addressing his amendment primarily to.

Mr. HATHAWAY. Yes, that is correct.

Mr. HUMPHREY. We considered this in committee and I must be candid about it, it was not looked on with favor, even though it was meritorious; but I am accused of being overgenerous on these things. I do not happen to believe that taking care of the basic needs of a school program for our children is any form of generosity but a wise investment.

Mr. HATHAWAY. Mr. President, I agree with the Senator 100 percent. He is not over-generous in supporting a 2 percent allocation for these funds. The people in my State administering this program asked me to push for 2.5 percent. They based that on the cost of administering the program last year and in previous years. I think that 2 percent is by no means an over-generous authorization, and I would be in hopes that the membership will support the amendment.

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

Mr. ALLEN. Mr. President, I yield myself such time as I may require.

The bill before us was the committee's recommendation on the House bill. The House bill adds millions of dollars. The committee adds millions of dollars. Now the Senate, by its votes today, adds more millions of dollars to the bill. The amendment offered by the distinguished Senator from Maine (Mr. HATHAWAY) may well be the amendment that will defeat the bill and will cause a veto of it. It may well be the straw that breaks the camel's back.

We say here that 2 percent of money going to the States under the school lunch program shall be set up for State administrative expenses. Well, that sounds mighty small, but it amounts to $30 million. We have already gone $300 million over last year and $400 million over the budget. Now, to add another $30 million is just inviting and insisting on a veto of the measure.

If the U.S. Government can put up $1.5 billion, why in the world cannot State and local governments put up 2 percent of that figure? Do they expect the Government to come in and appropriate $1.5 billion, running up under the bill actually to $1.8 billion after the amendments that have been agreed to here, and then have the States unwilling to put up this 2 percent?

Well, let us not add another $30 million. Let us say to the States, "Why can't you put up the 2 percent?"

This is supposed to be a program in which State and local governments cooperate with the Federal Government. If they are not willing to put up 2 percent, let us quit calling it a cooperative program. Let us not add another $30 million to the expenses of the U.S. Government to a bill already some $400 million over last year and $300 million over the budget, and expect the President to sign the bill. He has already shown that he will veto bills that exceed his budget requests. If we go $400 million over the budget, is it good judgment to add still another $30 million?

Mr. HUMPHREY. Mr. President, will the Senator from Alabama yield?

Mr. ALLEN. I yield.

Mr. HUMPHREY. The Senator recalls, I am sure, our conversation about this in committee. As I say, the committee did reject the 2 percent as an add-on. The problem that comes up is one that we can manage. Some States do have difficulty meeting some of the administrative costs. Other States do not. I have spoken and have been visiting with the Senator from Maine (Mr. HATHAWAY), and it seems to me that if we would follow the suggestion the Department has given us; namely, that we can use up to 2 percent out of whatever funds are available to us under the program, in our State, it is not an add-on.

May I say to the Senator from Alabama that we have put up the 2 percent of funds available under the program which does not increase the appropriation or increase the requirements, but it gives some States more flexibility because some States have a difficult time and others do not. So that I think that might overcome some of the difficulties we face here.

Mr. ALLEN. What the Senator is suggesting is to take this $30 million away from the plates of the school children and make it available to State bureaucracies——

Mr. HUMPHREY. No. What I am suggesting, to the man who believes so strongly in State's rights, is for the State to make that judgment that they can take up to 1 percent. The point would be made to take it up to 2 percent, because we have increased substantially the sums under this bill, and I do not think that is going to break the back of the school lunch program.

Mr. ALLEN. What is the authority for saying that they can go up to 1 percent?

Mr. HUMPHREY. That is what I understand they have authority to pay now.

Mr. ALLEN. According to the Department of Agriculture, they are paying $3.5 million.

Mr. HUMPHREY. I said "up to." I understand they can go "up to" 1 percent, although the Department contributions for that purpose is now running below that 1 percent level. That indicates the point I was making earlier—namely, that what is being provided here is the opportunity for States to develop their nutrition education programs, special services programs, up to a maximum of 2 percent.

Mr. ALLEN. But that would be taking away from the furnishing of food.

Mr. HUMPHREY. That is correct, which I would rather not happen, but all I am trying to do here is arrive at a compromise.

Mr. ALLEN. And it would then make the school lunch program come up that much short.

Both Senators from Alabama are strong believers in State's rights and strong believers in State's responsibilities; and if the Federal Government can pay 100 percent of the food program, the States ought to be able to pay 2 percent of that figure for overhead.

Mr. HUMPHREY. The Federal Government does not pay 100 percent.

Mr. ALLEN. A hundred percent of this figure.

Mr. HUMPHREY. I just offered this as a possibility of bridging the gap between what would be an add-on to the authorizations we are discussing here, as compared to a draw-down from those authorizations.

Mr. ALLEN. The Senator from Alabama has pointed out that that would be a backward step from what the Senator has already accomplished here. By adding the additional 2 cents to the money paid under section 4, he got $41,750,000 for each cent he raised that allotment. Here he is going to be waiving almost the whole cent of that increase, which would not be in the best interests of the school lunch program, in the judgment of the Senator from Alabama.

Mr. HUMPHREY. The Senator has made a powerful argument for the amendment of the Senator from Maine. I will back off. I did not know he wanted to support the Senator from Maine. If he believes we ought not touch these funds in any way, I think the Senator from Maine has a good case.

Mr. ALLEN. But the Senator from Alabama suggested that 2 percent be paid by the States as their contribution to this program. They ought to be willing to pay 2 percent.

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

Mr. ALLEN. I yield.

Mr. CURTIS. We should also keep in mind that a program of revenue sharing has been inaugurated, by which the Federal Government sends sums to the States and localities, some of which is not at all earmarked. We are providing such great sums in this school lunch and nutrition program that I believe that to further pay from Federal funds the cost of administration would not be a good, wholesome arrangement with the States and localities.

Mr. HUMPHREY. When the Senator from Nebraska mentioned revenue sharing, I could not help thinking, as a retired pharmacist, that we used to have a liniment years ago that was a sort of a general, all-purpose liniment, a kind of snake-oil compound. That is what revenue sharing has become. When anything comes up now, it is said that we have revenue sharing, and we can take care of all needs through such funds—to mend the holes in your socks, cure arthritis, a remedy for diabetes, take care of the manholes and sewers and water problems. It cannot cover them all, even though revenue sharing goes a long way. It is like Lydia Pinkham's compound.

Mr. CURTIS. It is a substantial item in the Federal budget, and most States have not turned it down.

Mr. ALLEN. Mr. President, the bill as now amended on the floor of the Senate raises last year's appropriation by $400 million. There is no showing whatever of the States putting up another dime. If the States did put up this 2 percent, it would require $30 million. Surely, they can put up $30 million if the Federal Government can put up $400 million extra.

I hope the amendment will be rejected.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ALLEN. I yield.

Mr. HARRY F. BYRD, JR. The Senator from Alabama mentioned the increase in the bill now before the Senate is $400 million more than what was appropriated last year.

Mr. ALLEN. That is correct.

Mr. HARRY F. BYRD, JR. Would the Senator from Alabama indicate what percentage increase that represents?

Mr. ALLEN. It raised it from approximately $1,394,000,000 to $1,800,000,000.

Mr. HARRY F. BYRD, JR. In rough calculation, that is a 30-percent increase?

Mr. ALLEN. That is correct.

Mr. HARRY F. BYRD, JR. I think the school lunch program is a good program. I am just wondering whether we can justify so large an increase in this critical period of our budgetary problems, although I realize the cost of food has increased.

Mr. ALLEN. Does not the Senator feel that the States could take over this 2-percent cost?

Mr. HARRY F. BYRD, JR. I think the States should.

The PRESIDING OFFICER. All time of the Senator from Alabama has expired.

Mr. HATHAWAY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. HATHAWAY. I should like to comment on a couple of points that have been made by the opponents to the amendment, particularly the last point.

My amendment takes 2 percent of the funds actually expended in the prior fiscal year for the substantive part of the program. This means that since we spent $975 million on the program last year, we would take 2 percent of that, which comes to $19.5 million, and add that to the amount that would be expended this year. It is not 2 percent of everything that has been added on here today to what was in the bill originally. It is 2 percent of what was actually expended last year. And since it will continue that way from year to year, it will be 2 percent of what was expended on the substantive part of the program during the previous fiscal year. In most cases, this will not amount to 2 percent of the authorization or even the appropriation if the money is not actually expended.

In addition, I make the point that many States are spending a considerable portion of their own funds on administration of this program.

The third point is in answer to the Senator from Alabama's statement that if we keep adding on amounts, we are going to wind up with a bill that the administration might veto. I do not think this add-on would cause the administration to veto this bill, because the administration witness testified in support of this provision.

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

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. (Putting the question).

The "nays" appear to have it.

Mr. HATHAWAY. Mr. President, I call for a division.

The PRESIDING OFFICER. A division is called for.

The Senate proceeded to divide.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The nays have it. The amendment is rejected.

The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

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

The bill was read the third time.

Mr. BUCKLEY. Mr. President, I will vote in favor of the bill as reported out by the Senate Agricultural Committee with considerable reluctance. The Senate version would add $217 million to the cost of the program, which the House had already increased by more than 20 percent over last year.

We all recognize that there has been a sharp rise in the cost of food in recent months but the rise does not begin to equal the 43 percent reflected in the

Senate version as before floor amendments were adopted. It seems to me that the House bill is more appropriate to existing needs. I want the RECORD to show that while I am voting in favor of H.R. 9639 as modified by the Senate, I fervently hope that what will emerge out of the conference will be far closer to the original House version than to that of the Senate. We simply must learn to exercise some degree of fiscal self-discipline if we are to bring inflationary forces under control.

SCHOOL LUNCH AND SPECIAL MILK PROGRAMS

Mr. BIDEN. Mr. President, because of the tremendous rise in the prices of food and labor and the scarcity of many commodities once in abundant supply, the cost of the preparation of meals for our schoolchildren has increased sharply.

I have recently been in contact with educators from my home State of Delaware. They inform me that the average price of a school lunch will go up from about 66.7 cents to between 70.7 cents and 73.4 cents—an increase of 4 cents to 7 cents. This situation is not peculiar to Delaware, however. The expense of producing these meals has risen even higher in other parts of the country.

It is up to us in the Congress to take corrective measures needed to insure that our children continue to receive nutritious meals at reasonable prices. If this remedial action is not taken quickly, the cost of school lunches will increase about 5 cents in Delaware and at least twice that amount in other areas. This should not be allowed to happen.

For the children of many needy families, the food they receive in school is the only nutritious, well-balanced meal they get all day. It takes more than capable teachers aind motivation for a person to receive a good education. A child who is hungry is not going to be able to learn properly. Fortunately, a large number of children in this situation qualify for free school feeding programs. Children from lower middle-income families are caught in a serious bind. however, because of increased costs. Many are just over the borderline of qualifying for free breakfasts or lunches and, therefore, stand the best chance of dropping out of the school food program altogether. U.S. Department of Agriculture surveys indicate that for every penny increase in the price of a school lunch, 1 percent of the students withdraw from the program. If projected increases go into effect as planned, this would mean that 1 million children might drop out of the school lunch program.

Several times in the recent past, Congress has met to adjust the Federal share of nutrition programs for students. Rather than constantly face this prospect and subject the programs to uncertain financing, I think it would be wise to write into this school lunch and child nutrition bill, H.R. 9639, a cost of living escalator, as was suggested to me 2 weeks ago in a meeting with members of the Wilmington school board. This would automatically take into account such factors as the costs of food and labor, the availability of commodities supplied by the USDA, and the national average payment of a school meal.

I consider the committee bill to be a good one and a step in the right direction. However, I do not feel it goes quite far enough. Therefore, I am pleased to join my colleagues Senators HUMPHREY and MCGOVERN in sponsoring amendment No. 534 to this bill. This amendment would increase the Federal share of each school lunch from 10 cents, as the committee recommends, to 12 cents and insert the aforementioned reimbursement escalator. It would also modestly raise the cutoff point for reduced price lunches so that many of those students from lower middle income families could remain on this worthwhile program.

Another matter that concerns me greatly is the plight of the special milk program. This program, which has gained broad acceptance throughout the land, has been in danger of being mangled in the guise of a cost-cutting measure. The administration has proposed to deny this program to all schools serving the normal "A" type lunches and, in so doing, cut the money for this valuable aid to good health by three-fourths. To me there is no more important food to growing children than milk, and I think this ploy is very poor economy indeed. I was very heartened to hear that the House conferees on the agriculture appropriations bill agreed to fund the full amount suggested by the Senate which would bring it up to the same level as last year. It is very unwise to tamper with a program so nutritionally beneficial to our children.

Mr. President, I ask unanimous consent that this letter addressed to Senator MCGOVERN from Robert C. John, Delaware Supervisor of School Food Services, concerning the school lunch program, be placed into the RECORD.

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

DEPARTMENT OF PUBLIC INSTRUCTION,
Dover, Del., August 31, 1973.

Senator GEORGE MCGOVERN,
Chairman, Select Committee on Nutrition and Human Needs, U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: This is in reply to your July 24 telegram about the problems of operating the Child Nutrition Programs in view of increasing food and labor costs associated with these program operations. The following is a restatement of your questions and my replies to each.

Question 1. What do you estimate will be the average cost in your state of producing a lunch this coming year? A breakfast? How will this compare to last year?

Based on whether a 6% or a 10% inflationary factor is applied to last year's cost of producing a Type A Lunch, I project a cost of between 70.7¢ and 73.4¢ as an average cost for producing a Type A Lunch in Delaware during the 1973-74 school year. Applying the same inflation factors to the breakfast, I project a cost of 25¢ to 26¢. This compares with 1972-73 school year costs of 66.7¢ and 23.6¢ respectively.

Question 2. Will the student's price be increased per lunch? Per breakfast? How much, on the average, would the increase be?

Unless remedial legislation such as H.R. 9639 or S 1063 becomes law, I project a general state-wide increase in student lunch and breakfast prices. As you know, the Administration has defended the continuation of present reimbursement rates as a matter of national priorities. They have suggested that any additional revenues needed for program support be obtained either from States in some cases where there have been revenue surpluses or that, since family income levels are higher than ever, the revenues be obtained by increasing the prices to the child. Since Delaware is not one of the States with a revenue surplus, I can only conclude that additional revenues needed for program support will come from increased prices to the students.

Last year the state-wide average price of a lunch was about 35¢. If, for coming year, we add to that figure 15¢ per lunch in Federal assistance (assuming some sort of remedial action regarding commodities) and 10¢ in State assistance (in the form of State paid salaries of food service supervisors and managers), we arrive at a per lunch income of 60¢, which according to my 1973-74 cost projections is 10–13¢ less than the total cost of producing a lunch. Assuming that local sources may help out with about 10% of the total cost in the form of in-kind assistance (custodial services, payment of utilities, delivery costs, etc.), this would add another 7 or 8¢ to the average school's per lunch income. This aggregate of about 67 or 68¢ still leaves the school from 2 to 5¢ per lunch short of actual production costs. Therefore, I would predict average lunch price increases of about 5¢.

The breakfast program presents a slightly different problem as to rising food and labor costs. Since about 85% of the breakfasts are served free, any increase in price to the paying children, however substantial, would not be sufficient to offset the 5 or 6¢ greater cost than the maximum reimbursement presently allowed for free breakfasts (20¢). Thus, unless this office could authorize these participating schools as "especially needy" on the allowable criteria of "unusual costs required to provide a breakfast in the school in spite of the observance of good management practices", some of the schools may choose to drop out of the program.

Question 3. Do you anticipate a decrease in the availability of commodities? Will this affect costs appreciably?

All information received by this office indicates an increasingly bleak situation as to the availability of commodities for the coming school year. Certainly, the outlook is very unfavorable with regard to the more valuable commodities such as red meats and dairy products. And, even though canned fruits and vegetables may be available in sufficient quantities, higher prices for them will mean lesser quantities purchased. Recently, there have even been speculations of relative shortages of commodities heretofore in abundant supply such as flour and other various grain products. It would seem logical that there would be a direct relationship between any decline in per meal value of donated commodities and the added cost of meal production that would have to be borne by individual programs. In fact, meal costs might increase slightly more than the decreasing value of the commodities since it would cost the average school or school district more to purchase foods of the type previously donated because of the lower purchase prices by USDA due to the volume of their purchases. That is, schools would generally pay more for the same type of foods than would USDA purchasing on a national basis.

Question 4. If the reimbursement rates are not increased, what will the specific effects be in your state? If they are, will participation (increase)?

Unless meal prices to the students are increased by the amounts projected in the answer to Question 2, it is likely that, by the end of the school year, many of the school

district food service programs will be operating at a deficit. At the least, many of the school districts' contingency reserves will be vastly reduced or non-existent.

The second part of your question has been misstated in the telegram, and it is difficult to interpret. If you mean "Will increased reimbursement rates increase participation?", the answer is not appreciably, since we have broad participation by the schools in the programs and rather high participation within these schools. However, increased reimbursement rates would permit program solvency. If your question means, "If reimbursement rates are *not* increased, will participation decrease?", I would predict some decline in participation, but not to the degree experienced in the past when prices were raised since at home "brownbag" lunch production costs will also vastly increase.

Question 5. What suggestions would you make to maintain and improve these programs in light of increased costs?

As is often the case, additional funding will alleviate many problems. Certainly, the increased reimbursement rates proposed by H.R. 9639 and S. 1063 would maintain program solvency and improve the programs insofar as their relationship with the total school district administration. If the school food service programs can avoid becoming a fiscal "millstone", they can continue their efforts to be accepted as a vital and integral part of the total scholastic offering to the children. In addition, provision for administrative expenses for the State distributing agencies to help reduce the cost of commodity delivery and services, would further assist the schools.

Further, since successful food service operations depend, to the maximum extent possible, upon uniformity of menu offerings (with reasonable variety) and a high volume of participation to keep costs at a minimum, reinstitution of Federal regulations concerning the time and place of the sale of competitive food items would be of inestimable value to the stability of the school's Type A lunch and breakfast programs. The more variables that are introduced in the form of competing snack bars, food concessions etc., the more difficult it becomes to project and maintain the large volume and steady participation needed for optimum operating efficiency of the school food service programs.

For this reason, I believe legislation that would rescind Section 7 of P.L. 92-433 would be most beneficial to achievement of one of the prime goals of school food service programs—to fulfill its role as an educational laboratory which provides a nutritional environment in which the child can learn to make wise food choices.

In meeting this objective, we fulfill the obligation we have to parents to safeguard their children's health and well-being as mandated by the National School Lunch Act.

We have a further duty to parents to see that the money they invest in school lunch programs, both as a portion of their taxes and as payment for their children's lunches, is spent in the most beneficent and efficient manner possible.

Thank you for asking for my views and for the consideration you have given them.

Sincerely,

ROBERT L. JOHN,
State Supervisor, School Food Services.

Mr. ABOUREZK. Mr. President, there can be little question that school districts all across the country are currently facing a severe financial crisis due to the rising cost of operating a school lunch and school breakfast program. Rising food costs, which have had a dramatic impact on individual families across the Nation, are also affecting food programs supported by the Federal Government. The children of our Nation are caught in the middle of the inflationary squeeze.

In recent weeks, school officials from all over the country have expressed concern about their ability to continue to operate an effective school lunch program. Faced with unprecedented escalation of food costs, many school districts have been forced to take emergency measures. They have begun to reduce the quantity and quality of meals served in schools, and they have raised the price that students must pay for a meal.

These emergency measures can only compound an already critical problem. And, what is most disturbing, they have placed the whole school lunch program in jeopardy.

I am greatly concerned about this mounting problem, and I am convinced that the Congress must act, and must act now, to forestall any possible deterioration in the school lunch program.

In my view, there can be little doubt about the merits of this Federal program. Its value in terms of the nutritional health and well-being of our Nation's schoolchildren can be seen in communities all across the United States. Any large scale decrease in participation in this program will certainly have a disastrous impact on the nutrition of these children.

Due to increased food, labor and transportation costs, the prices of lunches and breakfasts in a majority of the States is up 5 to 10 cents. Meanwhile, Agriculture Department studies indicate that for every 1-percent increase in meal prices, participation in the school lunch program drops 1 percent. Translated, this means that some 800,000 students from low- and middle-income families will probably cease their participation in the lunch program this year.

The implications of these statistics are as distressing as they are obvious. Any large scale decrease in participation in the school lunch program will inevitably initiate a chain reaction that will have a negative effect upon the nutrition of many schoolchildren. It is apparent that, caught in the inflationary squeeze, many children will drop out of the school lunch program and begin to bring their lunches to school. Commonsense and past experience repudiate any suggestion that the nutritional value of these brown-bag lunches will be equal to that of school-provided lunches.

Furthermore, any decrease in participation in the school lunch program by paying children will have an even more disastrous impact on needy children who are currently participating in the free or reduced-price lunch programs.

As we well know, the viability of the free and reduced-price lunch programs is largely dependent upon a high degree of participation by paying children. If these children withdraw from the school lunch program in large numbers, the free and reduced-price school lunch programs will be in grave danger. In both cases, the nutrition well-being of our Nation's youth will invariably suffer.

The need for prompt congressional action to fortify the National School Lunch program would appear to me to be evident. The piece of legislation which we are considering today, the National School Lunch and Child Nutrition Act Amendments of 1973, acknowledges the merits of the school lunch program and directly confronts the challenge which currently threatens it. It is a sound piece of legislation, and I urge its prompt enactment.

In my view, we can do no less than to assure that nutritious meals are available for all children during the school day. Passage of H.R. 9639, as amended, will constitute a strong indication of our commitment to the maintenance of a high standard of child nutrition and a sound investment in the future of our country. Our children deserve no less.

Mr. CLARK. Mr. President, the school lunch legislation we are considering today deserves all of our support.

The importance of the school lunch program to our Nation's children is well documented. Studies over the past 5 years have reported serious nutritional deficiencies among school-age children, and the school lunch program is shown to be effective in correcting those deficiencies as a major contributor of the nutrients necessary for children's health and learning ability.

The most comprehensive study of the nutritional status of the Nation's poor—HEW's 10-State nutrition survey—found that school lunch programs were "a very important part of nourishment" for many of the children studied, especially in our less-prosperous States. Among the three ethnic groups surveyed—black, white, and Spanish-American—the most important nutritional problems among school-age children were deficiencies in iron and vitamin A. School lunches were found to contribute 20 to 35 percent of the daily iron intake and 20 to 45 percent of the daily vitamin A intake in children from 10 to 16 years of age.

This year, school lunch programs across the country again face uncertainty in the level of Federal participation. Their tenuous situation is compounded by rising labor costs, possible food shortages and numerous other conditions that have sent food prices skyrocketing—such as abnormal weather during the 1972 fall harvest, strong export demands, high prices for livestock, and price freezes.

Mr. Vern Carpenter, State school food services director in the Iowa Department of Public Instruction, has compiled information which illustrates clearly the needs of Iowa's school lunch program for the upcoming school year. I ask unanimous consent that this data be inserted in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CLARK. Mr. President, briefly summarized, it projects a 20-percent increase in food costs, a 15-percent increase in labor costs, and a 3-percent increase in extra expenses. When these projections are applied on a cost-per-meal basis, we can anticipate an 8-cent-per-meal increase this year.

Where is this additional 8 cents to come from?

To make up the amount still needed to

serve a meal, a number of school districts in Iowa this fall have raised the price of lunches to the paying child by 5 cents and in some instances by 10 cents. Without additional Federal reimbursement, student prices may have to be raised again. The potential danger is, of course, when student lunch prices are raised, student participation will drop. From past experience we know the participation will decline from 10 to 20 percent. Needless to say, without adequate participation from paying children, the cost of providing reduced-price and free lunches would be much higher.

Let me just project the income realized from a 5-cent student lunch price increase, which comes only from the paying child. Last year, Iowa schools served 15.8 percent free and reduced-price lunches, and 96 percent of these were free. If every school in Iowa raised their student lunch price 5 cents, and if the participation level of paying children remained 85 percent, the average increase per meal would be 4 cents—still 4 cents short of the 8-cent goal.

The tables provided by Mr. Carpenter also include individual food prices and total menu costs obtained through a survey of four school districts in Iowa and a chart indicating the present status of school lunch cash balances in Iowa's school districts. Approximately 53 percent of Iowa's districts started this school year with a cash balance of less than 1 month and approximately 12 percent started with a deficit balance. Although I have cited figures here in terms of my own State, I have every reason to believe Iowa is representative of the situation in other States as well.

I would like to comment on just one other facet of this bill which seems of fundamental importance if we are to end the crippling effects of malnutrition and hunger. I am speaking of the WIC program which we are extending to fiscal year 1975. Under this pilot program, we will be feeding many needy youngsters and their mothers. The program is designed to end hunger among those individuals who will be most severely affected by malnutrition. It is our hope that through our experience in feeding infants under this program, together with the administrative and medical data that will be developed demonstrating the feasibility and importance of a larger effort, that we soon can make a determination about a permanent, nationwide program.

The legislation we are considering postpones the Agriculture Department's reporting requirements by 1 year. In addition, it will require the Department to expend $40 million for the pilot project in fiscal year 1975. This expenditure parallels the amount of money that must be spent in fiscal year 1974 under previous legislation—Public Law 92-433. Although the mandatory appropriations language for fiscal year 1974 specifies $20 million in expenditures, the Department must spend $40 million this year because it failed to spend a single penny of the $20 million appropriated in fiscal year 1973. This money was carried over fiscal year 1974 pursuant to section 3 of the National School Lunch Act. With the extension of the program into fiscal year 1975, Congress will be able to carefully examine this $80 million experiment to determine whether a permanent nationwide effort should be established to eradicate hunger among the impoverished infants of America.

The entire school lunch program is of the greatest importance and I am hopeful that it will receive the support it so clearly deserves.

EXHIBIT 1

I. PROJECTED INCREASES IN IOWA'S PER MEAL COSTS

Actual expenditure for 1972–73 school year were:	
Food	$19,109,272
Labor	12,657,256
Other	2,567,437
Total	34,393,965
Projections for expenditures for 1973–74 school year:	
Food (20 percent increase)	3,833,854
Labor (15 percent increase)	1,898,588
Other (3 percent increase)	77,023
Total	5,809,465
Less increased amount of State reimbursement	−457,912
Amount needed	5,351,553

Note: Total projected increase in expenditures of $5,351,553 divided by the estimated number of lunches to be served (69,000,000) —7.76 cents per lunch increase.

II. COMPARISON—THE VALUE OF GOVERNMENT COMMODITIES IS NOT INCLUDED

[Children and adult lunches in cents]

	School year 1971–72	School year 1972–73	Cents increase or decrease	Percent increase or decrease
Food	24.14	27.70	+3.56	15
Labor	17.25	18.29	+1.04	6
Other	3.59	3.71	+.12	3
Subtotal	44.98	49.70	+4.72	70
Indirect costs	10.88	12.16	+1.28	12
Total	55.86	61.86	+6.00	11

III. PROJECTED INCREASE IN PER MEAL COSTS DURING 1973–74

[In cents]

	School year 1972–73	Projected percentage increase	Projected cost 1973–74	Projected percent increase in total cost of lunch
Food	27.70	20	33.24	
Labor	18.29	15	21.03	
Other	3.71	3	3.82	
Subtotal	49.70		58.09	17
Indirect costs	12.16	07	12.16	
Total	61.86		70.25	14

IV. FEDERAL AND STATE REIMBURSEMENT IN IOWA FOR 1973–74

	Federal	State		Total
Type A lunch	$0.08	$0.0070		$0.0870
Free lunch	.40	.0356	.4356+0.0870=	.5226
Reduced price lunch	.20	.0180	.2180+.0870=	.3050

V. PROJECTED COST

Projected cost of preparing and serving a free lunch	$0.7025
Minus total Federal and State reimbursement	−.5226
Loss per free lunch	.1799

VI. CASH BALANCES

Year	Total districts	Percent having 2 months or more	Percent having 1 month or more	Percent having 0 to 1 month	Percent having deficit
1968–69	466	4.29	23.61	57.51	14.59
1969–70	477	4.61	20.34	60.17	14.88
1970–71	473	4.65	13.95	56.03	25.37
1971–72	465	10.97	28.82	57.84	2.37
1972–73	466	8.80	25.32	53.86	12.02

It can be seen from the above that cash balances have decreased during this past school year. In summary, 53.86 percent of Iowa's school districts started this school year with a cash balance of less than one month and 12.02 percent started with deficit balances.

VII. Four community school districts in Iowa were surveyed to obtain increases experienced in food costs. These four districts have capable school food service directors and all observe excellent management practices.

INCREASE IN MENU COSTS

This represents only food costs—not labor and other costs. These are actual figures. These are not estimates nor projections.

Main dish	Menu cost (food) September 1972 (cents)	December 1972 (cents)	May 1973 (cents)	Percent increase for year	September 1973 (cents)
Waterloo:					
Beefburger	30.7	31.1	33.0	7.5	(1)
Fish square	29.7	30.0	34.2	15.2	34.8
Sioux City:					
Beefburger	26.0	29.0	32.3	24.2	34.3
Hot dog	24.0	29.7	33.4	39.2	36.7
Chili	27.0	30.1	32.7	21.1	38.7
Fish square	29.0	32.0	(1)		41.1
Cedar Rapids:					
Beefburger	26.2	26.5	28.4	8.4	33.1
Macaroni and cheese	24.9	25.5	25.5	2.4	30.0
Hot dog	19.5	19.7	20.5	5.1	30.7
Chili	22.6	22.8	23.7	4.9	29.9
Fish square	20.5	20.5	20.5	0	21.6
Des Moines:					
Beefburger	29.0	31.5	33.0	13.8	38.6
Macaroni and cheese	23.5	24.6	24.6	4.7	29.8
Hot dog	29.0	29.0	31.0	6.9	35.3
Chili	27.1	27.1	31.0	14.4	30.8
Fish square	31.0	31.0	31.0	0	36.3

[1] Not served.

VIII.—INCREASES IN FOOD COSTS—ACTUAL

Foods	Purchased foods September 1972	Purchased foods May 1973	Purchased foods September 1973	Percent increase May to September
WATERLOO				
Ground beef	65¢	79¢	(1)	
Franks 8 to 1 lb	69¢	66¢	$1.16	68.1
½ pt. whole-milk, white	6.2¢	6.2¢	6.6¢	6.5
Sliced white bread per pound	13¢	13¢	14.7¢	13.1
No. 10 green beans	90¢	$1.12	$1.12	24.4
No. 10 tomato paste	$1.65	$1.75	$1.95	18.2

Foods	Purchased foods			Percent increase May to September
	September 1972	May 1973	September 1973	
Spaghetti per pound	21¢	20¢	31¢	47.6
Processed American cheese	64¢	81¢	84¢	31.3
Grade A large eggs, per dozen	42¢	58¢	76¢	81.0
No. 10 instant potatoes	$1.96	$2.15	$2.33	18.9
No. 10 W.K. corn	96¢	$1.07	$1.14	18.8
No. 10 fruit cocktail	$1.49	$1.75	$1.91	28.2
SIOUX CITY				
Ground beef	60.5¢	78¢	98¢	62.0
Franks 8 to 1 lb	56¢	72¢	83¢	48.2
½ pt whole milk, white	6.6¢	6.6¢	7.5¢	13.6
Sliced white bread per pound	34¢	35¢	37¢	8.8
No. 10 green beans	86.5¢	86.5¢	96.5¢	11.6
No. 10 tomato paste	$1.46	$1.46	$1.56	6.8
Spaghetti per pound	16.5¢	23.8¢	21.8¢	32.1
Processed American cheese	(1)	(1)	(1)	
Dried eggs per pound	58¢	$1.09	$1.54	165.5
No. 10 instant potatoes	$1.80	$1.80	$2.06	14.4
No. 10 W K corn	93¢	93¢	96.5¢	3.8
No. 10 fruit cocktail	$1.30	$1.40	(1)	
CEDAR RAPIDS				
Ground beef	72¢	84¢	98¢	36.1
Franks 8 to 1 lb	68¢	79¢	$1.15	69.1
½ pt whole milk, white	6.25¢	6.25¢	6.37¢	1.9
Sliced white bread per pound	21¢	21¢	24¢	14.3
No. 10 green beans	80.8¢	(2)	(2)	
No. 10 tomato paste	$1.58	(2)	(2)	
Spaghetti per pound	19.8¢	22.3¢	23.5¢	18.7
Processed American cheese	63.1¢	65¢	80¢	26.8
Grade A large eggs, per dozen	37¢	51¢	84¢	127.0
No. 10 instant potatoes	$1.875	(2)	(2)	
No. 10 whole kernel corn	85¢	(2)	(2)	
No. 10 fruit cocktail	$1.145	(2)	(2)	
DES MOINES				
Ground beef	62.5¢	81¢	(1)	
Franks 8 to 1 lb	67¢	74¢	$1.06	58.2
½ pt whole milk, white	6.45¢	6.45¢	7.2¢	11.6
Sliced white bread per pound	23¢	23¢	25¢	8.7
No. 10 green beans	79.5¢	85.8¢	85.8¢	7.9
No. 10 tomato paste	$1.53	$1.63	$1.72	12.4
Spaghetti per pound	18.0¢	20.3¢	25.3¢	40.6
Processed American cheese	66¢	70.6¢	70.6¢	7.0
Grade A large eggs, per dozen	41¢	41¢	50¢	22.0
No. 10 instant potatoes	$1.76	$1.75	$1.75	.6
No. 10 W.K. corn	87.5¢	91.7¢	95.8¢	9.5
No. 10 fruit cocktail	$1.52	$1.64	$1.64	7.9

[1] No bid.
[2] None purchased.

Mr. ALLEN. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Alabama yield me a minute?

Mr. ALLEN. I do not have any time.

Mr. CURTIS. Mr. President, I yield the distinguished Senator 1 minute on the bill.

Mr. HARRY F. BYRD, JR. Mr. President, I favor this school lunch program. I think it is a good program. I am concerned about the increases added by the Senate. That does give the Senator from Virginia a great deal of concern.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. CURTIS. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is, Shall the bill pass? 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 Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Montana (Mr. MANSFIELD), the Senator from Louisiana (Mr. LONG), and the Senator from Utah (Mr. Moss) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. CHILES) and the Senator from Montana (Mr. MANSFIELD) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. BEALL) are necessarily absent.

I further announce that the Senator from Vermont (Mr. AIKEN) and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Kansas (Mr. PEARSON) is absent because of illness.

I further announce that, the Senator from Alaska (Mr. STEVENS) is detained on official business.

If present and voting, the Senator from Maryland (Mr. BEALL) and the Senator from Oregon (Mr. HATFIELD) would each vote "yea."

The result was announced—yeas 82, nays 4, as follows:

[No. 412 Leg.]

YEAS—82

Abourezk	Fong	Muskie
Allen	Fulbright	Nelson
Baker	Griffin	Nunn
Bartlett	Gurney	Packwood
Bayh	Hansen	Pastore
Bentsen	Hart	Pell
Bible	Hartke	Percy
Biden	Hathaway	Proxmire
Brock	Helms	Randolph
Brooke	Hollings	Ribicoff
Buckley	Hruska	Roth
Burdick	Hughes	Saxbe
Byrd, Harry F., Jr.	Humphrey	Schweiker
	Inouye	Scott, Hugh
Byrd, Robert C.	Jackson	Scott, William L.
Cannon	Javits	Sparkman
Case	Johnston	Stafford
Church	Kennedy	Stennis
Clark	Magnuson	Stevenson
Cook	Mathias	Symington
Cotton	McClellan	Talmadge
Cranston	McClure	Thurmond
Dole	McGee	Tower
Domenici	McGovern	Tunney
Dominick	McIntyre	Weicker
Eagleton	Metcalf	Williams
Eastland	Mondale	Young
Ervin	Montoya	

NAYS—4

Bennett	Fannin	Goldwater
Curtis		

NOT VOTING—14

Aiken	Haskell	Moss
Beall	Hatfield	Pearson
Bellmon	Huddleston	Stevens
Chiles	Long	Taft
Gravel	Mansfield	

So the bill (H.R. 9639) was passed.

Mr. ALLEN. Mr. President, I ask unanimous consent that the Secretary be authorized to make clerical corrections in the Senate engrossment of the bill.

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

Mr. ALLEN. Mr. President, I also move that the Senate insist on its amendments and request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. ALLEN, Mr. McGOVERN, Mr. HUMPHREY, Mr. YOUNG, and Mr. DOLE conferees on the part of the Senate.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives by Mr. Berry, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1148. An act to provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes;

S. 1636. An act to amend the International Economic Policy Act of 1972 to change the membership of the Council on International Economic Policy, and for other purposes; and

H.R. 8917. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

ORDER FOR PRINTING OF H.R. 4200 IN THE RECORD

Mr. NELSON. Mr. President, I was requested by the chairman of the Finance Committee to have printed the pension reform bill which was passed last Wednesday. It had required some technical changes in order to be perfectly correct, so I did not submit it for printing at that time.

The reason that I am submitting this pension reform bill for printing in the RECORD is that there are widespread requests for the text of the bill, and in order that it be distributed to the libraries and around the country in the most efficient way possible to be made available to those who are concerned about the pension plan and to those who are involved in the pension plan, both employers and employees, I ask unanimous consent that the bill be printed in full in the RECORD.

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

Resolved, That the bill from the House of Representatives (H.R. 4200) entitled "An Act to amend section 122 of the Internal Revenue Code of 1954", do pass with the following amendment:

Page 2, after line 18, insert:

SEC. 2. (a) This Act, other than the first section, may be cited as the "Retirement Income Security for Employees Act".

(b) TABLE OF CONTENTS.—

TITLE I—ADMINISTRATION

PART A—INTERNAL REVENUE SERVICE

Sec. 101. Establishment of office.
Sec. 102. Authorization of appropriations.

PART B—REGISTRATION

Sec. 151. Duties of plans.
Sec. 152. Duties of Secretary of Health, Education, and Welfare.
Sec. 153. Effective date.
Sec. 154. Authorization of appropriations for Department of Labor.

TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

PART A—PARTICIPATION

Sec. 201. Minimum standards relating to participation.

PART B—VESTING

Sec. 221. Minimum standards relating to vesting.

Sec. 222. Certain nonqualified plans.
PART C—FUNDING
Sec. 241. Minimum standards relating to funding.
PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES
Sec. 261. Amendment of section 401.
Sec. 262. Prohibition against maintaining nonqualified plans.
PART E—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT PLANS AND CONTRACTS
Sec. 281. Duties of the Secretary of the Treasury.
Sec. 282. Duties of Secretary of Labor.
TITLE III—PORTABILITY
Sec. 301. Definitions.
Sec. 302. Program established.
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(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference is to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—ADMINISTRATION

PART A—INTERNAL REVENUE SERVICE

SEC. 101. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER.

"(a) COMMISSIONER OF INTERNAL REVENUE.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

"(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations'. The Office shall be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary or his delegate may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies).".

(b) SALARIES.—

(1) ASSISTANT COMMISSIONER.—Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified at GS–18, and is in addition to the number of positions authorized by section 5108(a) of this title.".

(2) CLASSIFICATION OF POSITIONS AT GS–16 AND 17.—Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In addition to the number of positions authorized by subsection (a), the Commissioner of Internal Revenue is authorized, without regard to any other provision of this section, to place a total of 20 positions in the Internal Revenue Service in GS–16 and 17.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by striking out the item relating to section 7802 and inserting in lieu thereof the following:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioner.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) INITIAL AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, an amount equal to the sum of $35,000,000 and one-half of the collections from the taxes imposed under section 4940 of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) during the second preceding fiscal year.

(b) PERMANENT AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each fiscal year beginning after June 30, 1976, an amount equal to the sum of—

(1) the amount of the collection from the taxes imposed under section 4975 of the Internal Revenue Code of 1954 (relating to annual tax on plan participation) during the second preceding fiscal year, and

(2) one-half of the collections from the taxes imposed under section 4940 of such Code (relating to excise tax based on investment income) during the second preceding fiscal year.

PART B—REGISTRATION

SEC. 151. DUTIES OF PLANS.

(a) ANNUAL REGISTRATION.—Within such period after the end of a plan year as the Secretary of the Treasury may prescribe, the administrator of each plan to which part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 applied at any time during such plan year, and each pension plan operated by the Government of the United States, or by the government of any State (including the District of Columbia) or political subdivision thereof, or by an agency or instrumentality thereof, shall file a registration statement with the Secretary of the Treasury. The registration statement shall set forth—

(1) the name and address of the plan,

(2) the name and taxpayer identification number of each individual who has a right to a deferred vested benefit in that plan as of the end of such plan year (other than those individuals who were paid retirement benefits under that plan during such plan year) and who has terminated his employment with the employer, who established and maintained that plan, within that year,

(3) the nature, amount, and form of any such deferred vested benefit, and

(4) such additional or other information as the Secretary may require.

(b) CHANGES IN STATUS.—The administrator of any plan required to be registered under section (a) shall also notify the Secretary, at such time as the Secretary may prescribe, of—

(1) any change of address of the plan,

(2) any change of name of the plan,

(3) the termination of the plan, or

(4) the merger or consolidation of the plan with any other plan.

(c) VOLUNTARY REPORTS.—The Secretary is authorized and directed to receive such additional reports relating to plan years ending before January 1, 1974, as the administrator of any such plan may wish to file with him relating to the deferred vested benefit rights of any person terminating his employment during any such plan year with the employer who established and maintained the plan.

(d) TRANSMISSION OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE; REGULATIONS.—The Secretary of the Treasury shall transmit any statements, reports, or other information obtained by him under this section to the Secretary of Health, Education, and Welfare at such times and in such form as the Secretary of Health, Education, and Welfare may require in order to carry out his responsibilities under section 1131 of the Social Security Act. The Secretary of the Treasury, after consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) DEFINITION OF ADMINISTRATOR.—For purposes of this section, the term "administrator" means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act.

(f) CERTIFICATE OF RIGHTS.—Each plan administrator filing a registration statement under subsection (a) shall also furnish to each individual described in paragraph (2) of that subsection, within the time prescribed for the filing of the registration statement, a statement setting forth the information with respect to that individual required in the registration statement. At the time he files the registration statement with the Secretary, the administrator of a plan shall furnish evidence satisfactory to the Secretary that he has complied with the requirements of this subsection.

SEC. 152. DUTIES OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE.

Title XI of the Social Security Act (relating to general provisions) is amended by adding at the end of part A thereof the following new section:

"NOTIFICATION OF SOCIAL SECURITY CLAIMANT WITH RESPECT TO VESTED PENSION BENEFITS

"SEC. 1131. (a) Whenever the Secretary makes a finding of fact and a decision as to—

"(1) the entitlement of any individual to monthly insurance benefits under section 202, 223, or 228,

"(2) the entitlement of any individual to a lump-sum death payment payable under section 202(i) on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

"(3) the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII,

or upon request made by any individual with respect to whom the Secretary holds information obtained under section 151 of the Retirement Income Security for Employees Act, he shall furnish to such individual any information regarding any vested right to a pension benefit acquired by the Secretary pursuant to such section with respect to the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

"(b)(1) For purposes of section 201(g)(1), expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of the Federal old-age and survivors insurance program.

"(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a).".

SEC. 153. EFFECTIVE DATE.

This part shall take effect upon the date of enactment of this Act, but the requirements of section 151 (a) and (b) shall apply only with respect to plan years ending after December 31, 1973.

SEC. 154. AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF LABOR.

There are authorized to be appropriated such sums as may be necessary to enable the Secretary of Labor to carry out his functions and duties under this Act.

TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

PART A—PARTICIPATION

SEC. 201. MINIMUM STANDARDS RELATING TO PARTICIPATION.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pensions, etc., plans) is amended by inserting at the end thereof the following new subpart:

"SUBPART B—SPECIAL RULES

"Sec. 410. Minimum standards relating to participation.

"SEC. 410. MINIMUM STANDARDS RELATING TO PARTICIPATION.

"(a) PARTICIPATION.—

"(1) MAXIMUM CONDITION. A trust shall not constitute a qualified trust under section 401(a) if the plan of which it is a part requires, as a condition of participation in the plan, that an employee have a period of service with the employer (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer) extending beyond the later of—

"(A) one year of service, or

"(B) the date on which the employee attains the age of 30 years.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) YEAR OF SERVICE.—The term 'year of service' means a calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) during which the employee is employed by the employer for more than 5 months.

"(B) MONTH.—The term 'month' means any calendar month during which the employee is employed for at least 80 hours of employment.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A trust shall not constitute a qualified trust under section 401(a) unless the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under section 401(a) which benefits either—

"(A) 70 percent or more of all the employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have not satisfied the minimum age and service requirements, if any, prescribed by the plan as a condition of participation, employees whose customary employment is for not more than 80 hours in any one month, and employees whose customary employment is for not more than 5 months in any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan), or

"(B) such employees as qualify under a classification set up by the employer and found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For the purpose of determining whether a trust constitutes a qualified trust under paragraph (1), there shall be excluded from consideration—

"(A) employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employees, if such agreement does not provide that such employees are to be included in the plan, and if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers, and

"(B) employees who are nonresident aliens who have no earned income (within the meaning of section 911(b)) from sources within the United States (within the meaning of section 861(a)(3)).

"(3) AFFILIATED GROUPS OF EMPLOYERS.—For purposes of this subsection, section 401(a)(4), and section 411, all employees of all corporations that are members of a controlled group of corporations (within the meaning of section 1563(a)) shall be deemed to be employed by a single employer."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(a) (relating to requirements for qualification) is amended by—

(A) striking out paragraph (3) and inserting in lieu thereof:

"(3) if the plan of which such trust is a part meets the requirements of section 410 (relating to minimum standards relating to participation); and", and

(B) striking out "paragraph (3)(B) or (4)" in paragraph (5) and inserting in lieu thereof "paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof)".

(2) Section 406(b)(1) (relating to certain employees of foreign subsidiaries) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(3) Section 407(b)(1) (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(c) CLERICAL AMENDMENT.—Part I of subchapter D of chapter 1 is amended by insert-

ing after the heading and before the table of sections the following:

"Subpart A. General Rule.
"Subpart B. Special Rules.

"SUBPART A—GENERAL RULE".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or

(B) if later (in the case of a plan maintained pursuant to an agreement which the Secretary of the Treasury finds to be a collective-bargaining agreement between employee representatives and one or more employers), to plan years beginning after the earlier of—

(i) the date on which the agreement terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) December 31, 1980.

PART B—VESTING

SEC. 221. MINIMUM STANDARDS RELATING TO VESTING.

(a) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 of this Act, is amended by inserting after section 410 the following new section:

"SEC. 411. MINIMUM STANDARDS RELATING TO VESTING.

"(a) GENERAL RULE.—Except as provided in subsection (c), a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part satisfies the requirements of paragraphs (1) and (2).

"(1) EMPLOYEE CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if, under the plan, an employee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) NONFORFEITABLE PERCENTAGE.—A plan satisfies the requirements of this paragraph if, under the plan, after 5 years of service (3 of which are consecutive) with an employer, an employee has a right to a percentage of his accrued benefit derived from employer contributions which is nonforfeitable other than by reason of death. The percentage shall not be less than the percentage determined under the following table:

"Years of service	Nonforfeitable percentage
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100

"(B) YEAR OF SERVICE.—For purposes of this paragraph, the term 'year of service with the employer' means—

"(i) with respect to plan years ending before January 1, 1982, a year in which an employee is employed more than a number of months (for not less than a number of hours in each such month) prescribed in regulations promulgated by the Secretary or his delegate after consultation with the Secretary of Labor, and shall include service with a predecessor of the employer to the extent provided in regulations prescribed by the Secretary or his delegate; and

"(ii) with respect to plan years ending after December 31, 1981, any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) in which an employee is employed for more than 5 months (if he is employed at least 80 hours in each of such 5 months) in such year with the employer who adopted the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer).

"(C) TENTH YEAR VESTING FOR CERTAIN PLANS.—Paragraph (A) shall not apply to a trust which meets the requirements of section 401(a) and is exempt from tax under section 501(a) or a plan which meets the requirements of section 404(b)(2), if such trust or plan was in existence and met such requirements on the date of enactment of the Retirement Income Security for Employees Act and if the plan of which such trust is a part, or such plan, provides on and after such date that each employee's rights to or derived from employer contributions become completely nonforfeitable (other than by reason of death) no later than the end of the tenth year of service of the employee with the employer who maintains the plan. A plan described in this subparagraph meets the requirements of this paragraph.

"(D) SPECIAL RULES.—For purposes of determining the nonforfeitable percentage—

"(i) no year of service which begins more than 5 years prior to the beginning of the year in which an employee is first eligible to participate in the plan shall be considered, unless with respect to such year, the employee makes contributions under the plan or the employer makes contributions under the plan on behalf of such employee,

"(ii) years of service shall include any years beginning on or after the date the plan was first effective, and

"(iii) years of service beginning prior to the enactment of the Retirement Income Security for Employees Act and on or after the date on which the plan was first effective (or any amendment thereto was first effective) shall be considered.

"(b) DEFINITIONS AND RULES RELATING TO ACCRUED BENEFITS.—

"(1) EMPLOYEE'S ACCRUED BENEFIT.—

"(A) IN GENERAL.—For purposes of this section, an employee's accrued benefit as of any applicable date is—

"(i) in the case of a defined benefit plan, except as provided under paragraph (3), the annual benefit commencing at normal retirement age to which he would be entitled under the plan as in effect on such date if he continued to earn annually until normal retirement age the same rate of compensation upon which his benefits would be computed under the plan, determined as if he had attained normal retirement age on the applicable date, multiplied by a fraction, the numerator of which is the total number of his years of active participation in the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor plan) as of such date, and the denominator of which is the total number of years he would have actively participated in such plan as of normal retirement age if he had continued to be an active participant in the plan until attaining such age, or

"(ii) in the case of a plan other than a defined benefit plan, the balance of the account or accounts for such employee as of that date.

"(B) LIMITATION.—The numerator of the fraction referred to in subparagraph (A)(i) shall not exceed the denominator.

"(C) DEFINED BENEFIT PLANS GENERALLY.—In the case of a defined benefit plan which permits voluntary employee contributions, the portion of an employee's accrued benefit derived from such contributions shall be treated as an accrued benefit derived from employee contributions under a plan other than a defined benefit plan.

"(D) CERTAIN INSURED DEFINED BENEFIT PLANS.—In the case of a defined benefit plan which is funded exclusively by the purchase of individual insurance contracts, an employee's accrued benefit at any date shall be equal to the benefit which might be purchased by the cash surrender value of the policy on the applicable date. An employee's accrued benefit under such a plan shall not be determined under this subparagraph unless the plan satisfies the requirements of paragraphs (1) through (6) of section 4971(e) (relating to certain insured plans).

"(E) VARIABLE ANNUITY PLANS.—In the case of a variable annuity plan, an employee's accrued benefit at any date shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

"(2) ALLOCATION OF ACCRUED BENEFIT BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS.—For purposes of this section, an employee's accrued benefit derived from employer contributions as of any applicable date is the excess of the accrued benefit determined under paragraph (1) for such employee as of such applicable date over the amount of the accrued benefit derived from contributions made by such employee as of such date. In the case of a plan other than a defined benefit plan, the amount of accrued benefit derived from contributions made by an employee is the balance of the employee's separate account consisting only of his contributions and the income, expenses, gains, and losses attributable thereto or, if a separate account is not maintained with respect to an employee's contributions under such a plan, is an amount which bears the same ratio to his total accrued benefits as the total amount of the employee's contributions (less withdrawals) bears to the sum of such contributions (less withdrawals) and the contributions made on his behalf by the employer (less withdrawals). In the case of a defined benefit plan providing an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the amount of the accrued benefit derived from contributions made by an employee as of any applicable date is the annual benefit equal to the employee's accumulated contributions multiplied by the appropriate conversion factor. For purposes of the preceding sentence, the term 'appropriate conversion factor' means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the conversion factor shall be determined in accordance with regulations prescribed by the Secretary or his delegate. For purposes of this paragraph, the term 'accumulated contributions' means the total of—

"(A) all mandatory contributions made by the employee,

"(B) interest (if any) under the plan to the end of the last plan year to which subsection (a)(2) does not apply (by reason of the applicable effective date), and

"(C) interest on the sum of the amounts determined under subparagraphs (A) and (B) compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which subsection (a)(2) applies (by reason of the applicable effective date) to the date upon which the employee would attain normal retirement age.

The accrued benefits derived from contributions made by an employee shall not exceed the accrued benefits determined under paragraph (1). The Secretary or his delegate is authorized to adjust by regulation the conversion factor, the rate of interest described in subparagraph (C), or both, from time to time as he may deem necessary. The rate of interest shall bear the relationship to 5 percent which the Secretary or his delegate de-

termines to be comparable to the relationship which the long-term money rates and investment yields for the last 10 calendar year period ending at least 12 months prior to the beginning of the plan year bear to the long-term money rates and investment yields for the 10 calendar year period 1964 through 1973. No such adjustment shall be effective for a plan year beginning before the expiration of 1 year after such adjustment is determined and published. For purposes of this paragraph, the term 'mandatory contributions' means amount actually contributed to the plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

"(3) For purposes of this section, in the case of any defined benefit plan, if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, or if the amount of accrued benefit derived from contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the employee's accrued benefit, or the amount of accrued benefit derived from contributions made by an employee, as the case may be, shall be the actuarial equivalent of such benefit or amount determined under paragraph (1) or (2).

"(c) SPECIAL RULES.—

"(1) PROHIBITED DISCRIMINATION.—Subsection (a) shall not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions adopted to preclude discrimination prohibited by section 401(a)(4).

"(2) CLASS YEAR PLANS.—The requirements of subsection (a)(2) shall be deemed to be satisfied in the case of a class year plan if such plan provides that 100 percent of each employee's rights to or derived from the contributions of the employer on his behalf with respect to any plan year are nonforfeitable not later than the end of the fifth plan year following the plan year for which such contributions were made (within the meaning of section 404(a)(6)). For purposes of this section, the term 'class year plan' means a profit-sharing or stock bonus plan which provides for the separate nonforfeitability of employees rights to or derived from the contributions of each plan year.

"(3) VOLUNTARY WITHDRAWALS FROM CERTAIN PLANS.—A trust which is a part of a plan to which employees make mandatory contributions (within the meaning of subsection (b)(2)) shall not be disqualified under this section merely because an employee's rights to his accrued benefit derived from employer contributions under the plan (or employer contributions for a particular plan year, in the case of a class year plan) are forfeitable if, by reason of his separation from the service or termination of his active participation in the plan, he voluntarily withdraws all or part of the mandatory contributions made by him (or all or a part of the mandatory contributions made by him for that particular plan year, in the case of a class year plan).

"(4) TERMINATION OR PARTIAL TERMINATION.—Notwithstanding the provisions of subsection (a); a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part provides that, upon its termination or partial termination, the rights of all employees to benefits accrued to the date of such termination or partial termination, to the extent then funded, or the amounts credited to the employees' accounts, are nonforfeitable. This paragraph shall not apply to benefits or contributions which, under provisions of the plan adopted to preclude the discrimination prohibited by section 401(a)(4), may not be used for designated employees in the event of early termination of the plan.

"(5) DISCRIMINATION.—A plan shall not be deemed to have satisfied the requirements of section 401(a)(4) merely because it satisfies the requirements of this section.

"(d) RECORDKEEPING REQUIREMENTS.—

"(1) SINGLE EMPLOYER PLAN.—Except as provided by paragraph (2), every employer shall, in accordance with regulations prescribed by the Secretary or his delegate, maintain records with respect to each of his employees sufficient to determine the benefits due or which may become due to such employees.

"(2) MORE THAN ONE EMPLOYER.—If more than one employer adopts a plan, each such employer shall, in accordance with regulations prescribed by the Secretary or his delegate, furnish to the plan administrator (within the meaning of section 3(15) of the Welfare and Pension Plans Disclosure Act) the information necessary for the administrator to maintain the records required by paragraph (1). Such administrator shall maintain the records required by paragraph (1).

"(e) CROSS REFERENCES.—

"For penalty for failure to meet requirements of subsection (a)(2)(A), see section 4973.

"For penalty for failure to furnish the information or maintain the records required under this section, see section 6690.".

(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6690. FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.

"(a) CIVIL PENALTY.—If any person who is required, under section 411, to furnish information or maintain records for an employee fails to comply with such requirement he shall pay a penalty of $10 for each employee with respect to whom such failure occurs, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply to the assessment or collection of any penalty imposed by subsection (a).".

(c) COMPARABILITY OF PLANS.—Section 401(a) (relating to qualified pension, etc., plans) is amended by adding at the end of paragraph (5) the following: "For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or derived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates, the plans shall not be considered not to satisfy the requirements of paragraph (4) merely because of the differences in such rates.".

(d) CONFORMING AMENDMENT.—Paragraph (7) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

"(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part meets the requirements of section 411 (relating to vesting).".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part I of subchapter D of chapter 1, as added by section 201, is amended by inserting at the end thereof the following new item:

"Sec. 411. Minimum standards relating to vesting.".

(2) The table of sections for subchapter B of chapter 68 is amended—

(A) by striking out the item relating to the section captioned "Assessable penalties with respect to information required to be furnished under section 7654" and inserting in lieu thereof:

"Sec. 6688. Assessable penalties with respect to information required to be furnished under section 7654.",

and

(B) by inserting at the end thereof the following new item:

"Sec. 6690. Failure to furnish information or maintain records.".

(3) Subchapter B of chapter 68 is amended by striking out the heading of the section immediately preceding section 6689 and inserting in lieu thereof:

"SEC. 6688. ASSESSABLE PENALTIES WITH RESPECT TO INFORMATION REQUIRED TO BE FURNISHED UNDER SECTION 7654.".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraphs (2), (3), and (4), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan (other than a plan described in paragraph (3)) in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administrator of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—
amendment or amendments apply to the plan

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

(3) The amendments made by this section shall apply to plan years beginning after December 31, 1980, in the case of a plan established and maintained by the United States or a State or political subdivision thereof, the District of Columbia, or an agency or instrumentality of the United States or of a State or a political subdivision thereof, or of the District of Columbia.

SEC. 222. CERTAIN NONQUALIFIED PLANS

(a) GENERAL RULE.—Section 404 (relating to deduction for contributions to an employee's trust, etc.) is amended—

(1) by inserting in subsection (a)(5) "or subsection (g)," after "or 3,", and

(2) by inserting at the end thereof the following new subsection:

"(g) CERTAIN PLANS.—No deduction shall be allowed under this section for a contribution by an employer to a trust created or organized in the United States which is not a trust described in section 401(a) (or a contribution to or under a plan which does not satisfy the requirements of subsection (a)(2)) if the plan of which such trust is a part (or such plan)—

"(1) is established under a written governing instrument,

"(2) provides a determinable retirement benefit for an employee or his beneficiaries which is not required, under the plan, to be paid in full to the employee or his beneficiaries within 5 years after such benefit accrues, and

"(3) in the case of a plan of an employer which is a corporation, provides for the deferral of compensation of any employee who—

"(A) is not an officer of such corporation, and

"(B) owns (or is considered as owning (within the meaning of section 1563(e))) stock possessing less than 5 percent of the total combined voting power.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply for taxable years beginning after December 31, 1975.

PART C—FUNDING

SEC. 241. MINIMUM STANDARDS RELATING TO FUNDING

(a) EXCISE TAX ON FAILURE TO MEET MINIMUM FUNDING STANDARD.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 44—QUALIFIED PENSION, ETC., PLANS

"Sec. 4971. Minimum standards relating to funding.
"Sec. 4972. Taxes on failure to meet minimum funding standard.
"Sec. 4973. Taxes on failure to meet minimum vesting standard.

"SEC. 4971. MINIMUM STANDARDS RELATING TO FUNDING

"(a) GENERAL RULE.—This section applies to a plan to which part I of subchapter D of chapter 1 applies, which—

"(1) has satisfied (or has been determined by the Secretary or his delegate to have satisfied) the requirement of section 404(a)(2), or

"(2) includes a trust which has qualified (or has been determined by the Secretary or his delegate to have qualified) under section 401(a).

A plan to which this section applies shall have satisfied the minimum funding standard provided by this subsection for a plan year at the end of which the plan does not have an accumulated funding deficiency. For purposes of this section and section 4972, the term 'accumulated funding deficiency' means (except in the case of a plan described in subsection (g)) the excess of the total charges to the funding standard account for all plan years over the total credits to such account for such years.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each plan to which this setion applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the amount described in subsection (e) (if applicable), or the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in not less than equal annual installments (computed on the basis of plan years)—

"(i) the initial unfunded past service liability under the plan, over a period of 30 plan years (or the period determined under subsection (d)(2)) until full amortized,

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (if as a result of such plan amendments the net unfunded past service liability under the plan for such year increases by 5 percent or more), over a period of 30 plan years, until fully amortized.

"(iii) the net experience loss (if any) for each plan year, over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(iv) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net increases required to be amortized under clause (ii)) over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(C) the amount necessary to amortize in equal payments each waived funding deficiency (within the meaning of subsection (d)) for each prior plan year over a period of 10 plan years, until fully amortized.

For purposes of subparagraph (B), in the case of a plan in existence on the effective date of this section, the initial unfunded past service liability under the plan shall be an amount equal to the unfunded past service liability on such date.

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account of a plan shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan (within the meaning of section 404(a)(6)) for the plan year,

"(B) the amount necessary to amortize in equal payments—

"(i) the net experience gain (if any) for each plan year over the lesser of a period of 15 plan years or a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized,

"(ii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net decreases required to be amortized under clause (iii)) over the lesser of a period of 15 plan years or a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized,

"(iii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in each plan year (if as a result of such plan amendments the net unfunded liability under the plan for such year decreases by more than 5 percent) over a period of 30 plan years, until fully amortized, and

"(C) the amount of the waived funding deficiency (within the meaning of subsection (d)) for the plan year.

"(4) INTEREST.—The funding standard account shall be charged or credited with interest (at the rate of interest used under the plan to determine costs) with respect to the balance of such account.

For purposes of this section, normal costs, past service liabilities, and experience gains and losses, shall be determined under the funding method used to determine costs under the plan, and the actuarial assumptions used to determine costs and liabilities under the plan must in the aggregate be reasonable.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) FULL FUNDING.—If, as of the end of a plan year, a plan would have an accumulated funding deficiency (but for the application of this paragraph) in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in paragraphs (2) (B) and (C) and (3) (A) and (B) of section (b) which are required to be amortized shall be considered fully amortized for purposes of such paragraphs.

For purposes of this paragraph, a plan shall be considered fully funded if the accrued liability (including normal cost) under the plan (determine under the funding method used by the plan to determine normal cost for such year if such liability can be directly calculated under such funding method, or determined under the entry age normal funding method if such liability cannot be so calculated under the funding method so used by the plan) is not greater than the value of the assets of the plan (determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of average value for 5 or fewer years) on the valuation date of the plan for such year.

"(2) COMPUTATION OF NET EXPERIENCE GAINS AND LOSSES.—In computing net experience gains and losses for a plan year, the value of the assets held under a plan shall be determined (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years.

"(3) CHANGE IN ACTUARIAL ASSUMPTIONS, SOCIAL SECURITY, ETC., BENEFITS.—For purposes of this section, all costs liabilities, interest rates, valuations of assets, and other factors under the plan shall be determined on the basis of actuarial assumptions which in the aggregate, are reasonable, and, if a change in the funding method or actuarial assumptions used under the plan, a change in benefits under the Social Security Act or other retirement benefits created under State or Federal law, or a change in the definition of the term 'wages' under section 3121, results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain. If a plan changes its funding method, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the the Secretary or his delegate. The plan year of a plan may be changed only if the change is approved by the Secretary or his delegate.

"(d) WAIVER OF MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—If an employer is unable to satisfy the minimum funding standard for a plan year without substantial business hardship, the Secretary or his delegate is authorized to waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard except the portion thereof determined under subsection (b)(2)(C). The Secretary or his delegate shall not waive the minimum funding standard with respect to

a plan for more than 5 of any 10 consecutive plan years. For purposes of this section, the term 'waived funding deficiency' means the portion of the minimum funding standards (determined without regard to subsection (b)(3)(C)) for a plan year waived by the Secretary or his delegate and not satisfied by employer contributions.

"(2) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan (as defined in section 401(a)(3)) of the Retirement Income Security for Employees Act—

"(A) the term '40 plan years' shall be substituted for the term '30 plan years' wherever it appears in subsection (b); and

"(B) if 10 percent or more of the number of employers contributing to or under the plan demonstrate to the satisfaction of the Secretary of Labor that they would experience substantial economic hardship if required to contribute the amount necessary to amortize in equal payments any unfunded liability (described in clause (i) or (ii) of subsection (b)(2)(B)) of such plan over a period of 40 years until fully amortized, then the 40-year period described in such clause shall be extended for the period of time (not in excess of 10 years) that is certified for this purpose by the Secretary of Labor to the Secretary of the Treasury.

"(3) LIMIT ON INCREASES IN BENEFITS WHILE WAIVER OR EXTENSION APPLIES.—Benefits under a plan may not be increased by amendment if a waiver under paragraph (1) or an extension under paragraph (2) is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such waiver or extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

"(e) CERTAIN INSURED PLANS.—If—

"(1) a plan is funded exclusively by the purchase of individual insurance contracts,

"(2) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participation in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

"(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(6) no policy loans are outstanding during the plan year,

the amount charged to the funding standard account shall be equal to the net premiums paid under the plan.

"(f) PLANS OTHER THAN DEFINED BENEFIT PLANS.—In the case of a profit-sharing, stock bonus, or money purchase plan—

"(1) 'normal cost' shall be the amount required under the plan to be contributed for a plan year to fund the current service liability, and

"(2) the amounts required to be charged under subsection (b)(2)(B) (i), (ii), and (iv) shall be the amount required under the plan to be contributed on account of past service liability.

"(g) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

"(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

"(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954,

"(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers of participants in such plan,

"(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

"(6) a plan described in section 404(a)(5).

"(h) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as are necessary to carry out the provisions of this section.

"SEC. 4972. TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARD

"(a) INITIAL TAX.—For each taxable year of an employer who maintains a plan to which section 4971 applies, there is hereby imposed a tax of 5 percent on the amount of the accumulated funding deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer responsible for contributing to or under the plan the amount described in section 4971(b)(3)(A).

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed by subsection (a) on an accumulated funding deficiency and such accumulated funding deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated funding deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) SPECIAL RULE.—In the case of a multiemployer plan, see section 413(b)(6).

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

"(1) CORRECT.—The term 'correct' means, with respect to an accumulated funding deficiency, the contribution, to or under the plan, of the amount necessary to reduce such accumulated funding deficiency as of the end of a plan year in which such deficiency arose to zero.

"(2) CORRECTION PERIOD.—The term 'correction period' means, with respect to an accumulated funding deficiency, the period beginning with the end of a plan year in which there is an accumulated funding deficiency and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated funding deficiency to zero under this section.

"(e) REGULATIONS.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) CROSS REFERENCE.—

"For disallowance of deduction for taxes paid under this section, see section 275.".

(b) AMENDMENT OF SECTION 404.—Section 404 (relating to deductions for contributions to an employees' trust, etc.) is amended by—

(1) inserting immediately after subsection (a)(1)(D) the following new sentences: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971(a) for the taxable year. For purposes of determining the amount deductible under section 162 or 212 with respect to a contribution to a pension plan and for purposes of determining the limitations under subparagraphs (B) and (C), assets held under the plan shall be valued (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years."; and

(2) by striking out subsection (a)(7), and inserting in lieu thereof:

"(7) LIMIT OF DEDUCTIONS.—If amounts are deductible under paragraphs (1) and (3), or (2) and (3), or (1), (2), and (3), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed the greater of 25 percent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans, or the amount of contributions made to or under the trusts or plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. In addition, any amount paid into such trust or under such annuity plans in any taxable year in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed the greater of 30 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries to or under the trusts or plans to the extent such contributions do not exceed the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than one trust or a trust and an annuity plan.

"SEC. 4973. TAXES ON FAILURE TO MEET MINIMUM VESTING STANDARD

"(a) INITIAL TAX.—For each taxable year of an employer who maintains a plan to which section 411 applies there is hereby imposed a tax of 5 percent on the amount of the accumulated vesting deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer who maintains the plan.

"(b) ADDITIONAL TAX.—In any case in which a tax is imposed by subsection (a) on an accumulated vesting deficiency and such accumulated vesting deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated vesting deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

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

"(1) ACCUMULATED VESTING DEFICIENCY.—The term 'accumulated vesting deficiency' means an amount equal to the actuarially equivalent value of all benefits under a plan derived from employer contributions which are required by section 411(a)(2)(A) to be nonforfeitable as of the end of a plan year, reduced by an amount equal to the actuarial-

ly equivalent value of all such benefits which are, in fact, nonforfeitable under that plan as of the close of that plan year.

"(2) CORRECT.—The term 'correct' means, with respect to an accumulated vesting deficiency, the crediting under the plan of the amount necessary to reduce such accumulated vesting deficiency to zero as of the end of a plan year in which such deficiency arose.

"(3) CORRECTION PERIOD.—The term 'correction period' means, with respect to an accumulated vesting deficiency, the period beginning with the end of a plan year in which there is an accumulated vesting deficiency and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated vesting deficiency to zero under this section.

"(d) REGULATIONS.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(e) CROSS REFERENCE.—

"For disallowence of deduction for taxes paid under this section, see section 275.".

(c) CONFORMING, CLERICAL, ETC., AMENDMENTS.—

(1) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 44. Qualified pension plans.".

(2) Section 6161 (relating to extensions of time for paying tax) is amended by striking out "or 42" each place it appears in subsection (b) and inserting in lieu thereof ", 42 or 44".

(3) Section 6201(d) (relating to assessment authority) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(4) Section 6211 (relating to definition of a deficiency) is amended by—

(A) striking out so much of subsection (a) as precedes "(1) the sum of" and inserting in lieu thereof the following:

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 42 and 44 the term 'deficiency' means the amount by which the tax imposed by subtitle A or B, or chapter 42 or 44, exceeds the excess of—"; and

(B) striking out "chapter 42" in subsection (b)(2) and inserting in lieu thereof "chapter 42 or 44".

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "or chapter 42" in subsection (a) and (b) and inserting in lieu thereof "chapter 42, or chapter 44",

(B) by striking out "chapter 42, and this chapter" in subsection (b), and inserting in lieu thereof "chapter 42, chapter 44, and this chapter", and

(C) by striking out "chapter 42 tax" in subsection (c) and inserting in lieu thereof "chapter 42 or 44 tax".

(6) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended—

(A) by striking out "or chapter 42" in subsection (a) and inserting in lieu thereof ", chapter 42 or chapter 44",

(B) by striking out the heading in subsection (e) and inserting in lieu thereof "SUSPENSION OF FILING PERIOD FOR CERTAIN CHAPTER 42 OR 44 TAXES.—"; by striking out "or 4945 (relating to taxes on taxable expenditures)" in subsection (e) and inserting in lieu thereof "4945 (relating to taxes on taxable expenditures), 4972 (relating to taxes on failure to meet maximum funding standard), section 4974 (relating to excise tax on prohibited transactions)"; and by striking out "or 4945(h)(2)" in subsection (e) and inserting in lieu thereof ", 4945(h)(2), 4972(d)(2), or 4974(f)(4)".

(7) Section 6214(c) (relating to determinations by Tax Court) is amended—

(A) by striking out the heading and inserting in lieu thereof "TAXES IMPOSED BY SECTION 507, CHAPTER 42, or CHAPTER 44.——",

(B) by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44"; and

(C) by striking out "chapter 42" in subsection (d) and inserting in lieu thereof "chapter 42, chapter 44".

(8) Section 6344(a)(1) (relating to cross references) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(9) Section 6501(e)(3) (relating to limitations on assessment and collection) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(10) Section 6503 (relating to suspension of running of period of limitations) is amended—

(A) by striking out "and chapter 42 taxes)" in subsection (a)(1) and inserting in lieu thereof "chapter 42 or 44 taxes)", and

(B) by striking out "or section 507" in subsection (h) and inserting in lieu thereof ", section 507, or chapter 44", and by striking out "or 4945(h)(2)" in subsection (h) and inserting in lieu thereof "4945(i)(2), 4972(d)(2), or 4974(f)(4)".

(11) Section 6512 (relating to limitations in case of petition to Tax Court) is amended by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44".

(12) Section 6601(d) (relating to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended by—

(A) striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44", and

(B) striking out in the heading thereof "Chapter 42" and inserting in lieu thereof "Chapter 42 or 44".

(13) Section 6653(c)(1) (relating to income, estate, gift, and chapter 42 taxes) is amended by striking out "chapter 42" each place it appears therein (including the caption) and inserting in lieu thereof "chapter 42 or 44".

(14) Section 6659(b) (relating to applicable rules) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(15) Section 6676(b) (relating to failure to supply identifying numbers) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(16) Section 6677(b) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(17) Section 6679(b) (relating to failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(18) Section 6682(b) (relating to false information with respect to withholding allowances based on itemized deductions) is amended by striking out "and chapter 42" and inserting in lieu thereof "chapter 42, and chapter 44".

(19) Section 6861 (relating to jeopardy assessments of income, estate, and gift taxes) is amended by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT, AND CERTAIN EXCISE TAXES."

(20) Section 6862 (relating to jeopardy assessment of taxes other than income, estate, and gift taxes) is amended—

(A) by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT, AND CERTAIN EXCISE TAXES.",

(B) by striking out "and gift tax)" and inserting in lieu thereof "gift tax, chapter 42 tax, and chapter 44 tax)".

(21) Section 7422 (relating to civil actions for refund) is amended—

(A) by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44" in subsection (e), and

(B) by striking out "chapter 42" in the handling of subsection (g) and inserting in lieu thereof "chapter 42 or 44", and

(C) by striking out "or 4945" in subsection (g)(1) and inserting in lieu thereof "4945, 4972, 4973, or 4974", and

(D) by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), 4972(a) (relating to initial tax on failure to meet minimum funding standard), 4973(a) (relating to initial tax on failure to meet minimum vesting standard), 4974(a) (relating to initial tax on prohibited transactions)", and

(E) by striking out "or 4945" in paragraphs (2) and (3) and inserting in lieu thereof "4945, 4972, 4973, 4974, or 4975".

(F) by striking out "or section 4945(b) (relating to additional taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), section 4972(b) (relating to additional tax on failure to meet minimum funding standard), section 4973(b) (relating to additional taxes on failure to meet minimum vesting standard), or section 4974(b) (relating to additional tax on prohiibted transactions)", and

(G) by striking out "or 4945" in subsections (g) (2) and (3) and inserting in lieu thereof "4945, 4972, 4973, or 4974".

(22) Section 275(a) (relating to certain taxes) is amended by inserting immediately following paragraph (5) the following new paragraph:

"(6) Taxes imposed by chapter 42 and chapter 44 (except section 4975 thereof)."

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administrator of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES

SEC. 261. AMENDMENT OF SECTION 401.

(a) IN GENERAL.—Section 401(a) (relating to requirements for qualification) is amended by—

(1) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) if the contributions or benefits provided under the plan do not discriminate in favor of employees who are—

"(A) officers,

"(B) shareholders, or

"(C) highly compensated,

excluding for this purpose employees who are nonresident aliens whose compensation from the employer (for the taxable year of the employer) does not include any earned income (within the meaning of section 911 (b)) from sources within the United States (within the meaning of section 861(a) (3)).", and

(2) by inserting at the end thereof the following new paragraphs:

"(11) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity for the life of a participant unless such plan provides for the payment of such benefit in the form of a joint and survivor annuity (with a survivor annuity of not less than one half of the amount of the annuity payable to the participant during the joint lives of the participant and his spouse), unless participant elects in writing, within 2 years of normal retirement age (or, if earlier, within 2 years of the first payment of regular retirement benefits), not to have the benefit paid in such form and that such election may be made only after such participant receives a written explanation of the terms and conditions of such joint and survivor annuity and the effect of such election.

"(12) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated unless the beneficiary thereof cannot be located or ascertained within such reasonable period of time as the Secretary or his delegate may prescribe by regulation.".

(b) PLANS BENEFITING OWNER-EMPLOYEES.—Section 401(d)(3) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by striking out "calendar year." and inserting in lieu thereof: "calendar, fiscal, or plan year, or any employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between employee representatives and one or more employers, if such agreement does not provide that such employees are to be included in the plan, and if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers.".

(c) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employes' annuity plan) is amended by striking out "and (8)," and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15),".

(2) Section 805(d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), and (15)".

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided by paragraph (2), the amendments made by this section shall apply with respect to plan years and taxable years beginning after the date of enactment of this Act.

(2) EXCEPTION.—In the case of a trust which is part of a plan which was in existence on December 31, 1972, the amendments made by this section shall not apply with respect to plan years beginning before January 1, 1976.

SEC. 262. PROHIBITION AGAINST MAINTAINING NON-QUALIFIED PLANS.

(a) IN GENERAL.—Except as otherwise provided in this section, no person engaged in a trade or business which is in or affects interstate commerce shall establish or maintain a retirement plan which does not meet the requirements of section 401 of the Internal Revenue Code of 1954 (other than a plan described in section 404(a)(5) of such Code to which section 404(g) of such Code does not apply).

(b) ENFORCEMENT.—The Secretary of the Treasury is authorized to bring an action in any district court of the United States having jurisdiction over a person who establishes or maintains a retirement plan in violation of the provisions of subsection (a) against such person for equitable relief to restrain that person from maintaining such a plan.

(c) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954,

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers of participants in such plan,

(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

(6) a plan described in section 404(a)(5) of such Code to which section 404(g) of such Code does not apply.

(d) DEFINITIONS.—For purposes of this section, the term—

(1) "retirement plan" means any plan, fund, or program other than a profit-sharing plan, which is established under a written governing instrument and provides a determinable retirement benefit for a participant in the plan or his beneficiaries; and

(2) "profit-sharing plan" means a retirement plan established or maintained by an employer to provide for the participation by his employees in the current or accumulated profits of the employer in accordance with a formula for allocating contributions made to the plan, by participants in the plan and for distributing benefits under the plan upon retirement or death of any participant.

(e) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations as may be necessary to carry out the provisions of this section.

PART E—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT PLANS AND CONTRACTS

SEC. 281. DUTIES OF THE SECRETARY OF THE TREASURY.

The Secretary of the Treasury or his delegate shall study the extent to which pension plans established and maintained by the Government of the United States, or by any State (including the District of Columbia) or political subdivision thereof, are adequately funded. In determining whether any such plan is adequately funded, the Secretary or his delegate shall consider the minimum funding standards applicable to private pension plans under the Internal Revenue Code of 1954, the taxing power of the government maintaining the plan, and whether it would be advisable or appropriate to require such plans to comply with the same minimum funding standards applicable to private pension plans or with other minimum funding standards. The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of such study not later than December 31, 1976, together with such recommendations, including recommendations for legislation, as he may deem appropriate.

SEC. 282. DUTIES OF SECRETARY OF LABOR.

(a) DEVELOPMENT OF REGULATIONS.—The Secretary of Labor shall develop, in consultation with appropriate professional societies, business organizations, and heads of interested Federal departments and procurement agencies, recommendations for modifications of Federal procurement regulations to insure that professional, scientific, and technical personnel and others working in associated occupations employed under Federal procurement, construction, or research contracts or grants shall, to the extent feasible, be protected against forfeitures of pension or retirement rights or benefits, otherwise provided, as a consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contracts, grants, or procurement policies.

(b) PUBLICATION.—Recommended changes in regulations governing Federal contracts, grants, or procurement policies shall be developed by the Secretary, as required by subsection (a), within six months after enactment of this Act, and shall be published in the Federal Register within fifteen days thereafter as proposed regulations subject to comment by interested parties.

(c) RECOMMENDATIONS.—After publication under subsection (b), receipt of comments, and such modification of the published proposals as the Secretary deems appropriate, the recommended changes in procurement regulations developed under this title shall be adopted by each Federal department and procurement agency within sixty days thereafter unless the head of such department or agency determines that such changes would not be in the national interest or would not be consistent with the primary objectives of such department or agency.

TITLE III—PORTABILITY

SEC. 301. DEFINITIONS.

For purposes of this title—

(1) "fund" means the Pension Benefit Portability Fund established under section 303;

(2) "corporation" means the Pension Benefit Guaranty Corporation established under title IV of this Act;

(3) "qualified plan" means—

(A) a pension, profit-sharing, or stock bonus plan described in section 401(a) of the Internal Revenue Code of 1954.

(B) an annuity plan described in section 403 (a) or (b) of such Code, and

(C) a bond purchase plan described in section 405(a) of such Code;

(4) "qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of the State in which an annuitant resides, which is determined by the corporation to be suitable as the issuer of annuity contracts authorized to be purchased under section 307(b)(3);

(5) "participant" means an employee who is covered under a qualified plan other than an employee who, at any time, has been an employee within the meaning of section 401 (c)(1) of the Internal Revenue Code of 1954;

(6) "administrator" means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act; and

(7) "State" means any of the States of the United States or the District of Columbia.

SEC. 302. PROGRAM ESTABLISHED.

The corporation shall establish a voluntary pension benefit portability program in accordance with the provisions of this title.

SEC. 303. ESTABLISHMENT OF FUND.

(a) IN GENERAL.—The corporation shall establish a Pension Benefit Portability Fund. Any payments received by the corporation under this section or under section 305 shall be deposited in the fund, and all expenditures made by the corporation under, or in connection with, this title shall be made out of the fund.

(b) INVESTMENT OF FUND MONEYS.—The corporation is authorized to invest any amounts in the fund during any fiscal year which it determines not to be needed for use in the program for the payment of liabilities during that year, and any amounts in the fund not needed for the payment of current operating and administrative expenses, in obligations of the United States, and to deposit any such amounts in interest-bearing accounts in, or purchase certificates of deposit from, any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and to deposit any such amounts in interest-bearing accounts in any savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation or in any credit union insured under title II of the Federal Credit Union Act. In no case shall more than 10 percent of the amount invested under this subsection be invested in or with any particular bank, savings and loan association, or credit union.

(c) REPORTS ON STATUS OF FUND.—The corporation shall report to the Congress not later than the first day of the fourth month beginning after the end of the fiscal year of the corporation on the operations and status of the fund during that fiscal year, and on its expected operations and status during the fiscal year of the corporation during which such report is made and the two succeeding fiscal years. The report shall also contain a review of the general policies followed by the corporation in managing the fund and may contain recommendations, including recommendations for additional legislation, with respect to the operations of the fund and of the portability program established by this title, which the corporation chooses to make.

SEC. 304. REGISTRATION.

(a) IN GENERAL.—If an employer who maintains a qualified plan wishes to be able to make payments from his qualified plan assets on behalf of former employees to the corporation for deposit in the fund, or to be able to receive payments from the corporation for the purchase of benefits under his qualified plan for his employees, he shall register the plan with the corporation. The registration shall be in such form and contain such information as the corporation may require. The corporation may not accept any registration application which does not contain the employer's agreement, the breach of which is subject to such charge as the corporation may by law impose, to pay to the corporation, within 180 days after the date on which it is requested, the amount payable under section 305 with respect to a participant in the registered qualified plan who is covered by such registration who requests such payment if that participant was employed by the employer at any time within a period of not less than 12 months preceding the date of the request.

(b) TERMINATION OF REGISTRATION; REREGISTRATION.—An employer may terminate the registration of his plan under this section and reregister from time to time; however, if the corporation determines that a requested termination of registration and a subsequent registration by an employer were for the purpose of discriminating against an employee or group of employees in an unlawful manner or in a manner prohibited to qualified plans under section 401(a) (3) or (4) of the Internal Revenue Code of 1954 or for the purpose of frustrating the purpose of this title, that termination of registration will be treated as not having been effective.

(c) LIMITED REGISTRATION.—An employer may register a qualified plan under this section with respect to less than all of his employees who are participants in that qualified plan if the group of employees with respect to whom he registers the plan is reasonably defined and the employer demonstrates to the satisfaction of the corporation that the group has a particular need for access to the voluntary pension benefit portability program which is not shared by his other employees who are excluded from the registration but who are participants in the same qualified plan.

SEC. 305. ACCEPTANCE OF DEPOSITS.

(a) PAYMENTS BY ADMINISTRATORS.—The corporation shall accept for deposit into the fund any payment made from the assets of a registered qualified plan by the administrator of that plan at the request of a participant if the payment represents a full discharge of liability by that plan to the participant and is made upon his separation from the service of the employer or employers who maintain the plan.

(b) PAYMENTS BY PARTICIPANTS.—The corporation shall accept for deposit into the fund any payment made by a participant (or former participant) in a qualified plan if—

(1) the payment is all or not less than the taxable portion of a distribution made to the participant by the plan representing a full discharge of liability of the plan to the participant, or a partial discharge of liability which will become a full discharge after being adjusted to reflect the participant's interest in the plan at the close of the plan year, or an installment portion of such a full discharge of liability with any remainder to be paid within 12 months after the date on which the first portion of such distribution is made; and

(2) the payment is made to the corporation for deposit into the fund within 60 days after the date on which the participant (or former participant) received the distribution to which the payment relates.

For purposes of this subsection, the term "taxable portion" means that part of any distribution to which the subsection applies which is attributable to amounts other than employee contributions made by the participant.

(c) OTHER CONDITIONS.—The corporation shall not accept any payment described in subsection (a) unless the payment is made directly to the corporation by the administrator of the plan, nor shall it accept any payment described in subsection (a) or (b) unless it is made in cash or its equivalent and it is accompanied by such information with respect to the plan and with respect to the payment and the participant on behalf of whom the payment is made, or who is making the payment, as the corporation may require for the efficient administration of the voluntary pension benefit portability program.

SEC. 306. INDIVIDUAL ACCOUNTS.

(a) ACCOUNT ESTABLISHED.—The corporation shall establish and maintain a separate account for each separate payment received by the corporation under section 305 of this title on behalf of each participant.

(b) ITEMS SHOWN IN ACCOUNT.—An account established under subsection (a) shall identify the participant for whom it is established and shall show—

(1) the name and address of each qualified plan which makes a payment under section 305 of this title on behalf of the participant in whose name such account is established;

(2) the portion of each such payment which constitutes the amount treated under sections 72, 402(a), and 403 of the Internal Revenue Code of 1954 as the net amount contributed by the participant;

(3) any remaining portion of each such payment; and

(4) the amount which constitutes the income attributable to such account while in the custody of the fund.

SEC. 307. PAYMENTS FROM INDIVIDUAL ACCOUNTS.

(a) GENERAL RULE.—Except as provided in subsection (b), an amount credited to the account of any participant under this title may be paid by the corporation to—

(1) such participant,

(2) his beneficiary,

(3) a qualified insurance carrier selected by such participant, or

(4) a qualified plan.

(b) LIMITATIONS.—

(1) In the case of a payment by the corporation to a participant, such payment shall be made upon the written request of such participant and in an amount—

(A) of $100 or more, or

(B) which constitutes the total amount credited to the account of such participant.

The corporation shall, upon the date a participant attains the age of 70½ years, pay to such participant the amount which constitutes the total amount credited to the account of such participant. No payment may be made to a participant who has not attained the age of 59½ years unless that participant is disabled (within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954).

(2) A payment shall be made by the corporation to the beneficiary of a participant only if—

(A) the participant dies before the total amount credited to his account has been paid or distributed in accordance with paragraphs (1), (3), and (4), and

(B) the payment is made to the beneficiary upon his written request and—

(i) is in an amount of $100 or more,

(ii) constitutes the total amount credited to the account of the participant (if less than $100), or

(iii) is used to purchase an immediate annuity for such beneficiary (which is payable for his life or for a term certain not extending beyond the life expectancy of the beneficiary) and which is distributed immediately to the beneficiary.

For purposes of this paragraph, the total amount credited to the account of a participant must be paid or distributed to his beneficiary not later than 10 years after the death of the participant.

(3) In the case of a payment by the corporation to a qualified insurance carrier selected by a participant who has attained the age of 59½ years, such payment shall only

be made if such payment is used for the purchase of—

(A) a single premium life annuity contract payable during the life of such participant commencing not earlier than the date on which such participant attains the age of 59½ years and not later than the date on which he attains the age of 70½ years, or

(B) a single premium joint and survivor annuity contract payable during the lifetimes of such participant and his spouse commencing not earlier than the date on which such participant attains (or would have attained) the age of 59½ years and not later than the date on which such participant attains (or would have attained) the age of 70½ years,

which will be distributed to such participant on the date on which payments are to commence.

(4) The corporation shall make a payment to a qualified plan only if—

(A) the plan is registered under section 304,

(B) the payment is made pursuant to a request made by the participant within 12 months after he becomes a participant in such plan, or, if later, within 12 months after the plan is registered under section 304, and

(C) the administrator of the plan agrees to accept the payment and to apply it to the purchase of benefits under the plan which have a value equivalent to the value of the payment if it were left in the fund.

(c) MANDATORY WITHDRAWALS.—The balance of any account of a participant shall be paid by the corporation to such participant within 30 days after notification to the corporation by the Secretary of the Treasury or his delegate that the trust or plan (which made a payment credited to such account) has been determined not to be a qualified trust under section 401(a) of the Internal Revenue Code of 1954 or not to be a plan which satisfied the requirements of section 404(a)(2) of such Code at the time such trust or plan made such payment.

SEC. 308. ASSISTANCE TO PLAN ADMINISTRATORS.

The corporation shall provide assistance to employers, employee organizations, trustees, and administrators of pension plans in their efforts to provide greater retirement protection for indiivduals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

SEC. 309. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

(a) AMENDMENT OF SECTION 402.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by—

(1) striking out "and (4)" in the first sentence of paragraph (1) of subsection (a) and inserting in lieu thereof ", (4) and (6)",

(2) inserting after paragraph (5) of subsection (a) (as amended by section 703(b) of this Act) the following new paragraph:

"(6) CERTAIN TRANSFERS.—For purposes of this section, a transfer of the full amount representing an employee's interest in an employee's trust described in section 401(a) which is exempt from tax under section 501 (a) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404(a)(2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401 (c)(1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b)(2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date.", and

(3) adding at the end thereof the following new subsections:

"(f) TAXABILITY OF PAYMENTS TO THE PENSION BENEFIT PORTABILITY FUND.—A payment to the Pension Benefit Portability Fund (established under section 303 of the Retirement Income Security for Employees Act) by a qualified plan of an amount described in section 305 of that Act on behalf of a participant shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made.

"(g) TAXABILITY OF PAYMENTS FROM THE PENSION BENEFIT PORTABILITY FUND.—Any amount paid on behalf of a participant from the Pension Benefit Portability Fund—

"(1) to a member plan, shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made;

"(2) to or with respect to such participant, shall be includible in gross income to the extent that such amount (when added to amounts previously received) exceeds the aggregate amount of each payment to the Pension Benefit Portability Fund credited to the account of such participant which is treated as contributed by such participant under subsection (a), or section 72 or 403;

"(3) to a qualified insurance carrier (within the meaning of section 301(4) of the Retirement Income Security for Employees Act) for the purchase of an annuity contract described in section 307(b) (2) or (3) of that Act shall not be includible in the gross income of such participant for the taxable year in which such annuity contract is purchased.

"(h) TAXABILITY OF MANDATORY WITHDRAWALS FROM THE PENSION BENEFIT PORTABILITY FUND.—Any amount paid to a participant under the provisions of section 307(c) of the Retirement Income Security for Employees Act shall be includible in the gross income of such participant to the extent such amount constitutes the amount described in section 306(b)(4) of such Act."

(b) AMENDMENT OF SECTION 403.—Section 403(a) (relating to taxability of beneficiary under annuity plan) is amended by—

(1) striking out "paragraph (2)" in the first sentence of paragraph (1) and inserting in lieu thereof "paragraphs (2) and (4)", and

(2) inserting after paragraph (3) (as added by section 703(b) of this Act) the following new paragraph:

"(4) CERTAIN TRANSFERS.—For the purposes of this section, a transfer of the full amount representing an employee's interest in an annuity plan described in section 404(a)(2) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404(a)(2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401 (c)(1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b)(2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of enactment of this Act.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the corporation (which shall be treated solely for purposes of this section as an instrumentality of the United States) such sums as may be necessary to carry out the provisions of this title.

TITLE IV—PLAN TERMINATION INSURANCE

PART A—PENSION BENEFIT GUARANTY CORPORATION

SEC. 401. DEFINITIONS: SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this title, the term—

(1) "administrator" means the person or persons described in section 501(g)(11) of this Act;

(2) "substantial employer" means any employer (treating employers which are members of the same affiliated group, within the meaning of section 1504(a) of the Internal Revenue Code of 1954, as one employer) who—

(A) has made contributions to or under a multiemployer plan for each of any 2 consecutive plan years equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year, and

(B) who has received notice from the plan administrator under section 466 and has not withdrawn from the plan within 24 months after receiving such notice;

(3) "multiemployer plan" means a plan which the corporation determines is a plan to which more than one employer (treating employers who are members of the same affiliated group within the meaning of section 1504(a) of the Internal Revenue Code of 1954 as one employer) is required to contribute and which is a plan established or maintained pursuant to a collective bargaining agreement between employee representatives and one or more employers, but a plan shall not be considered to be a multiemployer plan within the meaning of this section unless the corporation determines that—

(A) under the plan benefits are payable with respect to each participant without regard to the cessation of contributions by the employer who employed that participant, and

(B) the amount of contributions made to or under the plan for a plan year by any employer making such contributions is less than 50 percent of the aggregate amount of contributions made to or under the plan for

that plan year by all employers making such contributions;

(4) "corporation" means the Pension Benefit Guaranty Corporation established under section 402; and

(5) "fund" means the Pension Benefit Guaranty Fund established under section 403.

(b) SPECIAL RULES.—

(1) NON-MULTIEMPLOYER PLANS.—A plan which is not a multiemployer plan shall be treated as the separate plan of each employer (with predecessor and successor employers treated as one employer) who contributed to or under the plan.

(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer, and a partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954.

SEC. 402. PENSION BENEFIT GUARANTY CORPORATION.

(a) ESTABLISHMENT.—There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation (hereinafter referred to as the "Corporation"). In carrying out its functions under this Act the Corporation shall be administered by a Board of Directors (as provided in subsection (c)), under the general supervision and direction of the Secretary of Labor.

(b) GENERAL POWERS.—In addition to any specific power granted to the Corporation elsewhere in this Act, the Corporation shall have the power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by its Board of Directors, bylaws and rules relating to the conduct of its business and the exercise of all other rights and powers granted to it by this Act;

(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this Act in any State or other jurisdiction without regard to qualification, licensing, or other statute in such State or other jurisdiction;

(5) to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, ocnvey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein wherever situated;

(6) subject to the provisions of subsection (c), to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and, to the extent desired, require bonds for them and fix the penalty thereof;

(7) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this Act.

(c) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties of members of the Board. The Secretary of Labor shall be the Chairman of the Board of Directors.

(d) MEETINGS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of the Corporation.

(e) BYLAWS.—As soon as practicable but not later than 180 days after the date of enactment of this Act, the board of directors shall adopt initial bylaws and rules relating to the conduct of the business of the corporation. Thereafter, the board of directors may alter, supplement, or repeal any existing bylaw or rule, and may adopt additional bylaws and rules, from time to time as may be necessary. The Secretary of Labor shall cause a copy of the bylaws of the corporation to be published in the Federal Register not less than annually.

(f) EXEMPTION FROM TAX.—The Pension Benefit Guaranty Corporation, its property, its franchise, capital, reserves, surplus, and its income (including, but not limited to, any income of the Pension Benefit Guaranty Fund and the Pension Benefit Portability Fund), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

SEC. 403. ESTABLISHMENT OF PENSION BENEFIT GUARANTY FUND.

(a) TRUST FUND.—

(1) IN GENERAL.—There is established on the books of the Treasury of the United States a trust fund to be known as the "Pension Benefit Guaranty Fund" (hereinafter in this title referred to as the "fund"). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b). Upon request made by the Corporation, the Secretary of the Treasury shall transfer such amounts from the fund to the Corporation as the Corporation deems necessary to pay benefits guaranteed under section 422 and to pay the operational and administrative expenses of the Corporation.

(2) TRUSTEE.—The Secretary of the Treasury is the trustee of the fund and shall report to the Congress not later than the first day of March of each year on the operation and status of the fund during the preceding fiscal year of the corporation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the fund for each fiscal year an amount equal to the amount of the collections of tax under section 4972 of the Internal Revenue Code of 1954 (relating to taxes on failure to meet minimum funding standard) and chapter 45 of such Code.

(c) PREMIUM RATES; COVERAGE SCHEDULES.—

(1) IN GENERAL.—The corporation shall prescribe such insurance premium rates and such coverage schedules for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title.

(2) COVERAGE SCHEDULES.—The corporation shall maintain separate coverage schedules for—

(A) plans which are multiemployer plans,

(B) plans which are not multiemployer plans, and

(C) employers who wish to be insured against liability under part D of this title.

Except as provided in paragraph (3), the corporation may revise such schedules whenever it determines that revised rates are necessary, but a revised schedule described in subparagraph (A) or (B) shall apply only to taxable years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution originating in the House of Representatives.

(3) INITIAL COVERAGE SCHEDULES FOR PLANS.—The rate of all plans with respect to plan years ending with or within taxable years ending before January 1, 1977, shall be—

(A) in the case of each employer who maintains one or more plans other than a multiemployer plan, with respect to each such plan, an amount equal to $1 for each individual employed by him at any time during each plan year who is a participant in such plan at any time during such plan year; or

(B) in the case of a multiemployer plan, an amount equal to $1 for each individual who is employed by any of the employers in such plan at any time during each plan year and who is a participant in such plan at any one time during such plan year.

(d) REVISED COVERAGE SCHEDULE PROCEDURE.—

(1) IN GENERAL.—In order to place a revised coverage schedule (other than a schedule described in subsection (c)(2)(C) of this section) in effect, the corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Ways and Means of the House of Representatives.

(2) EXERCISE OF RULEMAKING POWER OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3); and they shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(3) RESOLUTION.—For the purpose of the succeeding paragraphs of this subsection, "resolution" means only a concurrent resolution originating in the House of Representatives, the matter after the resolving clause of which is as follows: "That the Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on ————.", the blank space therein being filled with the date on which the corporation's message proposing the rate was delivered.

(4) REFERRAL OF RESOLUTION.—A resolution shall be referred to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives or the Committee on Finance and the Committee on Labor and Public Welfare of the Senate.

(5) DISCHARGE OF COMMITTEE.—If the committee to which has been referred a resolution has not reported it before the expiration of 10 calendar days after its introduction, it shall then (but not before) be in order to move to discharge the committee from further consideration of that resolution, or to discharge the committee from further consideration of any other resolution with respect to the proposed adjustment which has been referred to the committee. The motion to discharge may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the

motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

(6) CONSIDERATION OF RESOLUTION.—When the committee has reported, or has been discharged from further consideration of a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(7) DEBATABILITY OF MOTIONS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(e) BORROWING AUTHORITY.—The corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations of the corporation. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the corporation under this subsection, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

PART B—COVERAGE

SEC. 421. PLANS COVERED.

(a) GENERAL RULE.—Except as provided by subsection (c), this section applies to any plan which, for a plan year, is, or has been determined by the Secretary of the Treasury to be, a plan described in section 401(a) of the Internal Revenue Code of 1954, or which meets the requirements of section 404((a)(2) of such Code. For purposes of this section, a successor plan is deemed to be a continuation of a predecessor plan. For this purpose, a successor plan is a plan which covers a group of employees which includes substantially the same employees as a previously established plan and provides substantially the same benefits as that plan provided.

(b) CONSENT BY PLANS TO BE COVERED BY TITLE.—The filing of a return under section 6040 of the Internal Revenue Code of 1952 for a plan claiming treatment as a plan to which part I of subchapter D of chapter 1 of such Code applies shall constitute the consent of that plan and its administrator to be bound by the provisions of this title.

(c) LIMITATIONS.—This section shall not apply to any plan—

(1) which is a pension plan of the money purchase type, a profit-sharing plan, or a stock bonus plan,

(2) established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State or political subdivision thereof,

(3) established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless—

(A) such plan has notified the corporation, in accordance with procedures prescribed by the corporation, that it wishes to have the provisions of this title apply to it,

(B) the plan is established and maintained for the exclusive benefit of employees of such church or convention or association of churches who are employed exclusively in connection with one or more unrelated trades or businesses (within the meaning of section 513 of such Code), or

(C) the plan is a multiemployer plan, and one or more of the employers in the plan is not a church (or a convention or association of churches) which is exempt from tax under section 501(a) of such Code, or

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c)(8) or (9) of such Code under which no part of the contributions to or under the plan are made by employers of participants in the plan.

For purposes of paragraph (1) of this subsection, the term "money purchase type" does not include a plan under which a fixed benefit is promised if the employer or his representative participated in the determination of that benefit.

SEC. 422. BENEFITS COVERED.

(a) GENERAL RULE.—Subject to the limitations contained in subsection (b), the corporation shall guarantee the payment of all nonforfeitable benefits and of all ancillary benefits under the terms of a plan which terminates at a time when section 421 applies to it. For purposes of this subsection, the term "ancillary benefit" means any nonforfeitable retirement benefit which is determined by the corporation to be insurable as an ancillary benefit.

(b) LIMITATIONS.—

(1) NEW BENEFITS.—No benefits provided by a plan in effect for less than 36 months at the time the plan terminates shall be guaranteed under this section. For purposes of this paragraph, the time a successor plan (within the meaning of section 421(a)) has been in effect includes the time a previously established plan (within the meaning of section 421(a)) was in effect.

(2) BENEFIT INCREASES.—The amount of benefits described in subsection (a) shall be determined without regard to any amendment of the plan which increases the value of benefits payable with respect to a participant, if such amendment was made within the 36-month period preceding the date on which the plan terminates.

(3) MAXIMUM GUARANTEED BENEFIT UNDER SINGLE PLAN.—Except as provided in paragraphs (8) and (9), the amount of monthly benefits described in subsection (a) provided by a plan, which are guaranteed under this section with respect to a participant, shall not have an actuarial value which exceeds the actuarial value of a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the lesser of—

(A) 50 percent of his average monthly gross income from his employer during the 5 calendar year period (or, if less, during the number of calendar years in such period in which he actively participates in the plan) preceding the calendar year in which the plan terminates (or the calendar year in which he is no longer an active participant) determined by dividing 1/12th of the sum of all such gross income by the number of such calendar years in which he had such gross income, or

(B) $750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974. The actuarial value of a benefit (including ancillary benefits) shall be determined in accordance with bylaws of the corporation. For purposes of subparagraph (A), gross income within the meaning of section 911(b) of the Internal Revenue Code of 1954 from the employer; and the 5 calendar year period taken into account shall be the 5 consecutive calendar years period which yields the largest average annual gross income from an employer.

(4) MAXMUM AMOUNT PAYABLE UNDER MORE THAN ONE PLAN.—Nothwithstanding paragraph (3), no person shall receive from the corporation with respect to a participant an amount, or amounts, that has an actuarial value which exceeds a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the amount determined under paragraph (3)(B) at the time of the last plan termination.

(5) CERTAIN PARTICIPANTS.—

(A) This paragraph shall apply only to a participant who is covered by a plan as an owner-employee (within the meaning of section 401(c)(3) of such Code) on any day during the plan year in which the plan terminates or any of the 3 consecutive plan years immediately preceding such year.

(B) The amount of monthly benefits otherwise payable from the corporation with respect to each participant described in subparagraph (A) shall be reduced to take account of such participant's individual pro rata share of the accumulated funding deficiency (as defined in section 4971(a) of the Internal Revenue Code of 1954) at the time the plan terminates. The individual pro rata share shall be equal to such accumulated unfunded deficiency multiplied by a fraction, the numerator of which is the amount of benefits otherwise payable from the corporation with respect to such participant and the denominator of which is the value of benefits payable from the corporation with respect to all such participants on the date of termination.

(6) DISQUALIFICATION.—

(A) DISQUALIFICATION BY SECRETARY.—No benefits accrued under a plan after the date on which the Secretary of the Treasury or his delegate issues notice that he has determined that any trust which is a part of a plan does not meet the requirements of section 401(a) of the Internal Revenue Code of 1954, or that the plan does not meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the Secretary or his delegate subsequently issues a notice that such trust meets the requirements of section 401(a) of such Code or that the plan meets the requirements of section 404(a)(2) of such Code.

(B) OTHER DISQUALIFICATIONS.—No benefits accrued under a plan after the date on which an amendment of the plan is adopted which causes the Secretary of the Treasury or his delegate to determine that any trust under the plan has ceased to meet the re-

quirements of section 401(a) of the Internal Revenue Code of 1954 or that the plan has ceased to meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the amendment is revoked as of the date it was first effective or amended to comply with such requirements.

SEC. 423. CONTINGENT LIABILITY COVERAGE.

(a) IN GENERAL.—The corporation is authorized to insure any employer who maintains or contributes to or under a plan to which section 421 applies against the payment of any liability which would be imposed on him under part D of this title in the event of a termination of that plan.

(b) PREMIUMS.—The corporation is authorized to prescribe and collect, in such manner as it deems to be appropriate, premiums for insurance offered under subsection (a). Such premiums shall be determined by the corporation and revised by it from time to time as may be necessary, without regard to the provisions of section 403(d), and shall be chargeable at a rate sufficient to fund any payments by the corporation which become necessary under any such contract of insurance.

(c) CONTINGENT LIABILITY COVERAGE.—No payment shall be made by the corporation under any contract of insurance entered into under this section with an employer for contingent liability arising with respect to any benefit unless the premiums under such contract have been paid by the employer and such contract has been in effect (with respect to any such benefit) for more than 60 months.

(d) NO PAYMENT IF EMPLOYER REMAINS IN BUSINESS.—No payment shall be made by the corporation under any contract of insurance entered into by it under this section with respect to the contingent liability of any employer who, within the meaning of section 462(f), remains in business after the termination of the plan with respect to which the contingent liability arose.

(e) OTHER INSURANCE.—Nothing in this section shall be considered to preclude the purchase by an employer of insurance from any other person, or to limit the circumstances under which had insurance is payable, or in any way to limit the terms and conditions of such insurance.

SEC. 424. OTHER RISKS.

The corporation is authorized to insure (subject to the limitations of section 422(b)(4)) the payment of other classes of benefits under a plan wherever feasible, to prescribe the terms and conditions of such insurance, and to establish and collect such premiums as may be necessary.

PART C—TERMINATIONS

SEC. 441. TERMINATION BY PLAN ADMINISTRATOR.

(a) GENERAL RULE.—Before the effective date of the termination of a plan, the administrator shall file a notice with the corporation that the plan is to be terminated and for a period of 90 days thereafter the plan administrator shall pay no amount pursuant to the termination procedure of the plan unless, before the expiration of such period, he receives a notice of sufficiency under subsection (b). Thereafter, the plan administrator shall proceed with the termination of the plan in a manner consistent with section 444.

(b) NOTICE OF SUFFICIENCY.—If the corporation determines that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator of such determination as soon as practicable.

(c) NOTICE OF INSUFFICIENCY.—If, within a period of 90 days after a notice of termination is filed by a plan administrator pursuant to subsection (a), the corporation finds that it is unable to determine that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator within such 90-day period of such finding. Upon issuance of such notice, the plan shall be treated as if it had been terminated by the corporation under section 442 on the date such notice is issued.

(d) EXTENSION OF TIME.—The corporation and the plan administrator may agree to extend the 90-day period provided by this section by a written agreement signed by the corporation and the plan administrator before the expiration of the 90-day period. Such agreement shall extend the 90-day period in accordance with the agreement. The 90-day period may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 90-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

(e) SUBSEQUENT INSUFFICIENCY.—If in terminating the plan as authorized by this section, the plan administrator finds that the plan is unable, or will be unable, to pay when due, benefits guaranteed under section 422 (without regard to section 422(b)(5)) the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs with the finding of the plan administrator, it shall terminate the plan under section 442.

(f) CERTAIN AMENDMENTS OF PLAN.—For purposes of subsection (a), a plan with respect to which benefits are guaranteed under section 422 shall be treated as terminated upon the adoption of an amendment to such plan, if, after giving effect to such amendment, the plan is a plan described in section 421(c)(1).

SEC. 442. TERMINATION BY PENSION BENEFIT GUARANTY CORPORATION.

(a) PRELIMINARY DETERMINATION.—The corporation may institute proceedings under this section to terminate a plan whenever it determines that—

(1) the plan has not met the minimum funding standard required under section 4971 of the Internal Revenue Code of 1954, or has been notified by the Secretary of the Treasury that a notice of deficiency under section 6212 of such Code has been mailed with respect to the tax imposed under section 4972(a) of such Code,

(2) the plan is unable to pay benefits when due to the extent guaranteed under section 422 (without regard to section 422(b)(5)),

(3) the reportable event described in section 443(b)(8) has occurred, or

(4) the liability of the corporation may reasonably be expected to increase substantially if the plan is not terminated.

(b) NOTICE TO PLAN.—Whenever the corporation makes a determination under subsection (a) with respect to a plan it may, upon notice to the plan, apply to the appropriate United States district court for the appointment of a trustee to administer the plan with respect to which the determination is made pending the issuance of a decree under subsection (c) ordering the termination of the plan. If within 3 business days after the filing of an application under this subsection, or such other period as the court may order, the administrator of the plan shall consent to the appointment of a trustee, or fail to show why a trustee should not be appointed, the court may grant the application and appoint a trustee to administer with plan in accordance with its terms until the corporation determines that the plan should be terminated or that termination is unnecessary.

(a) APPLICATION FOR DECREE.—If the corporation has issued a notice under this section to a plan administrator and (whether or not a trustee has been appointed under subsection (b)) has determined that the plan should be terminated, it may, upon notice to the plan administrator, apply to the appropriate United States district court for a decree adjudicating that the plan must be terminated in order to protect the interests of the participants and to avoid any further deterioration of the financial condition of the plan or any further increase in the liability of the fund. Upon granting a decree for which the corporation has applied under this subsection the court shall authorize the trustee appointed under subsection (b) (or appoint a trustee if one has not been appointed under such subsection and authorize him) to terminate the plan in accordance with the provisions of section 444.

(d) POWERS AND DUTIES OF THE TRUSTEE.—

(1) POWERS.—

(A) POWERS BEFORE ISSUANCE OF DECREE.—A trustee appointed under subsection (b) shall, until the issuance of a decree under subsection (c), have the power—

(i) to do any act authorized by the plan or this title to be done by the plan administrator or any trustee of the plan;

(ii) to require the transfer of all (or any part) of the assets and records of the plan to himself as trustee.

(iii) to invest any assets of the plan which he holds in accordance with the provisions of the plan and applicable rules of law;

(iv) to limit payment of benefits under the plan to amounts guaranteed by section 422 (without regard to section 422(b)(5)) or to continue payment of some or all of the benefits which were being paid prior to his appointment; and

(v) to do such other acts as he deems necessary to continue operation of the plan without increasing the political liability of the corporation, if such acts may be done under the provisions of the plan.

If the court which application is made under subsection (c) dismisses the application with prejudice, or if the corporation fails to apply for a decree under subsection (c) within 30 days after the date on which the trustee is appointed, the trustee shall transfer all assets and records of the plan held by him to the plan administrator within 3 business days after such dismissal or the expiration of such 30-day period, and shall not be liable to the plan or any other person for his acts as trustee except for willful misconduct.

(B) POWERS UPON ISSUANCE OF DECREE.—If the court to which an application is made under subsection (c) issues the decree requested in such application, the trustee shall have the power—

(i) to pay benefits under the plan in accordance with the provisions of section 444,

(ii) to collect for the plan any amounts due the plan,

(iii) to receive any payment made by the corporation to the plan under this title,

(iv) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan, other than a suit or proceeding in which the corporation is an adverse party,

(v) to issue, publish, or file such notices, statements, and reports as may be required by the corporation or any order of the court,

(vi) to liquidate the plan assets, and

(vii) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries.

(2) NOTICE TO INTERESTED PARTIES.—As soon as practicable after his appointment, the

trustee shall give notice to interested parties of the institution of proceedings under this title to determine whether the plan should be terminated or to terminate the plan, whichever is applicable. For purposes of this paragraph, the term "interested party" means—

(A) the plan administrator,

(B) each participant in the plan and each beneficiary of a deceased participant, and

(C) each employer who may be subject to liability under section 462.

(3) DUTIES.—Except to the extent inconsistent with the provisions of this Act, or as may be otherwise ordered by the court, a trustee appointed under this section shall be subject to the same duties as a trustee appointed under section 47 of the Bankruptcy Act.

(e) EFFECT OF OTHER PENDING ACTIONS.—An application by the corporation under this section may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceeding, or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

(f) EXECUTIVE JURISDICTION OVER PLAN.—Upon the filing of an application for the appointment of a trustee or the issuance of a decree under this section, the court to which an application is made shall have exclusive jurisdiction of the plan involved and its property wherever located, with the powers, to the extent consistent with the purposes of this section, of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act. Pending an adjudication under subsection (c) such court shall stay, and upon appointment by it of a trustee as provided in this section such court shall continue the stay of, any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve, or liquidate the plan or its property and any other suit against any receiver, conservator, or trustee of the plan or its property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against property of the plan or any other suit against the plan.

(g) APPROPRIATE COURT.—An action under this subsection may be brought in the judicial district where the plan administrator resides or is doing business or where any property of the trust forming a part of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

SEC. 443. REPORTABLE EVENTS.

(a) REPORT OF EVENT.—Within 30 days after the occurrence of a reportable event, the plan administrator shall notify the corporation that such event has occurred.

(b) OCCURRENCE OF REPORTABLE EVENT.—For purposes of this section a reportable event occurs—

(1) LOSS OF QUALIFIED OR EXEMPT STATUS BY TRUST.—At the time the Secretary of the Treasury issues notice that he has determined that any trust which is a part of the plan and which has previously qualified under section 401(a) of the Internal Revenue Code of 1954, or which the Secretary of the Treasury has previously determined has so qualified, has ceased to so qualify, or ceased to be exempt from tax under section 501(a) of such Code;

(2) LOSS OF QUALIFIED STATUS BY PLAN.—At the time the Secretary of the Treasury issues notice that he has determined that a plan which has previously satisfied the requirements of section 404(a)(2) of the Internal Revenue Code of 1954 or which the Secretary of the Treasury has previously determined has satisfied such requirements, has ceased to satisfy such requirements;

(3) BENEFIT DECREASED.—At the time an amendment of the plan is adopted if, under the amendment, the benefit payable with respect to any participant may be decreased;

(4) DECREASE IN PARTICIPANTS.—At the time the number of active participants is less than 80 percent of the number of such participants at the beginning of the plan year or less than 75 percent of the number of such participants at the beginning of the previous plan year;

(5) TERMINATION UNDER INTERNAL REVENUE CODE.—At the time the Secretary of the Treasury determines that there has been a termination or partial termination of the plan or a complete discontinuance of contributions thereunder, within the meaning of section 401(a)(7) of the Internal Revenue Code of 1954;

(6) FAILURE TO MEET MINIMUM FUNDING STANDARD.—At the time the plan fails to meet the minimum funding standard under section 4971 of the Internal Revenue Code of 1954;

(7) PLAN UNABLE TO PAY BENEFITS.—At the time a plan is unable to pay benefits thereunder when due; or

(8) CERTAIN DISTRIBUTIONS.—At the time there is a distribution under a plan to a participant who is an owner-employee (within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954) if such distribution is made other than on account of death or disability, exceeds $10,000, and results in the certain of, or an increase in, unfunded vested liabilities under the plan.

(c) NOTIFICATION BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall notify the corporation whenever he makes a determination described in paragraph (1) or (5) of subsection (b), issues the notice described in paragraph (2) of such subsection, mails a notice of deficiency under section 6212 of the Internal Revenue Code of 1954 to a plan with respect to the tax imposed under section 4972(a) of such Code, or obtains any other information with respect to a plan which constitutes a reportable event.

SEC. 444. ALLOCATION OF ASSETS.

As soon as practicable after the termination of a plan to which section 421 applies, the plan administrator shall allocate the assets of the plan as follows:

(1) CERTAIN EMPLOYEE CONTRIBUTIONS.—In the case of a plan which provides for employee contributions other than mandatory contributions, the portion of an employee's accrued benefit derived from such employee contributions shall be treated as an accrued benefit derived from contributions under a plan other than a plan to which section 421 applies, and, before applying paragraph (2), assets shall first be allocated to such other plan in accordance with the account balances of the participants in such other plan.

(3) MANDATORY CONTRIBUTIONS.—Assets shall first be allocated to each participant to the extent of his total mandatory contributions. In the event that the assets are insufficient for this purpose, the assets shall be so allocated pro rata.

(3) BENEFITS IN PAY STATUS FOR AT LEAST 3 FULL YEARS.—If the assets of the plan exceed the total amount allocated under paragraphs (1) and (2), the remaining assets shall be allocated to each participant who began to receive payment of benefits not less than 3 years prior to the time the plan terminates to the extent not included in paragraphs (1) and (2) and to the extent of the excess of the present value (as of the date on which the plan terminated) of his benefits (at the level in effect 36 months prior to the date of termination) over his total mandatory contributions under the plan. If the assets of the plan are insufficient for this purpose, the assets remaining after the allocation described in paragraphs (1) and (2) shall be so allocated pro rata.

(4) OTHER GUARANTEED BENEFITS.—If the assets of the plan exceed the total amounts allocated under paragraphs (1), (2), and (3), the remaining assets shall be allocated to each participant to the extent of the present value of all other benefits guaranteed under section 422 (without regard to section 422(b)(5)). If the assets of the plan are insufficient for this purpose, the assets remaining after the allocations described in paragraphs (1) and (2) shall be so allocated pro rata with respect to all such other benefits of each participant.

For purposes of this section, "mandatory contributions" are amounts contributed to the plan by the participant which are required as a condition of employment, as a condition of participation in such plan, or in order to obtain benefits under the plan attributable to employer contributions. For this purpose the total amount of mandatory contributions of a participant is the amount of such contributions reduced (but not below zero) by the sum of the amounts paid or distributed to him under the plan prior to such termination.

SEC. 445. RECAPTURE OF CERTAIN PAYMENTS

(a) AUTHORITY.—To the extent the Corporation would not otherwise have the power under this title to undertake the action described in this section with respect to a plan, the Corporation shall have such power with respect to any plan which affects interstate commerce. For purposes of this section, a plan affects commerce if a labor dispute concerning the plan would hinder or obstruct commerce or the free flow of commerce.

(b) RECAPTURE.—Except as provided in subsection (c), the Corporation is authorized to recover from a participant the recoverable amount of all payments from the plan to him which commenced within the 3-year period immediately preceding the time the plan is terminated. The recoverable amount is the sum of all payments actually received by the participant reduced by (1) the amounts such participant would have received during such 3-year period if he had elected at the time of the first such payment to receive his interest in the plan as a monthly benefit equivalent to a monthly benefit with no ancillary benefit in the form of a life annuity commencing at age 65 and (2) the present value at the time of termination of the benefits guaranteed under this title to the extent such benefits exceed his pro rata share of the corporation liability (determined under section 461). Such pro rata share shall be determined in accordance with bylaws or rules of the corporation.

(c) SPECIAL RULES.—

(1) CERTAIN DISTRIBUTIONS.—In the event of a distribution described in section 443(b)(8) the 3-year period referred to in subsection (b) shall not commence until the date on which the corporation is notified of the distribution.

(2) NO RECOVERY FOR DEATH OR DISABILITY DISTRIBUTIONS.—The corporation shall not recover any payment made from a plan after or on account of the death of a participant; or an account of his disability (if he is receiving disability benefits under the Social Security Act with respect to that disability).

(3) WAIVER.—The corporation is authorized to waive, in whole or in part, the recovery of any amount which it is authorized to recover under this part in any case in which it determines that substantial economic hardship would result to the participant or his beneficiaries from whom such amount is recoverable.

SEC. 446. REPORT BY CORPORATION

The corporation shall furnish to the trustee and file with the court a report setting forth—

(1) the amount of benefits payable with

respect to each participant under a plan to be terminated,

(2) the amount of benefits guaranteed under section 422 which are payable with respect to each participant in the plan,

(3) the present value, as of the time of termination, of the aggregate amount of benefits payable under section 422 (determined without regard to section 422(b)(5)),

(4) the fair market value of the assets of the plan at the time of termination,

(5) the computations under section 444, and all actuarial assumptions under which the items described in paragraphs (1) through (4) were computed, and

(6) such other information with respect to the plan as the trustee may require in order to terminate the plan.

PART D—LIABILITY

SEC. 461. CORPORATION LIABILITY.

The liability of the corporation with respect to a plan which is terminated under this title shall be equal to the present value, as of the time of termination, of the aggregate amount of benefits guaranteed under section 422 (determined without regard to section 422(b)(5)), to the extent not provided for by the fair market value of the assets of the plan, at such time, allocated in a manner consistent with the requirements of section 444. This amount shall be payable from the fund described in section 403.

SEC. 462. LIABILITY OF EMPLOYER.

(a) EMPLOYERS LIABLE.—This section applies to any employer who maintained a plan (other than a multiemployer plan) at the time it was terminated by the corporation, but does not apply—

(1) to an employer who maintained a plan with respect to which he paid the annual optional premium described in paragraphs (2)(C) and (3)(B) of section 403(b) for each of the 5 plan years immediately preceding the plan year during which the plan terminated unless the employer remains in business (as defined in subsection (f)), or

(2) to the extent of any liability arising out of the insolvency of a qualified insurance carrier (as defined in section 301(4) of this Act).

(b) AMOUNT OF LIABILITY.—Any employer to which this section applies shall be liable to the Corporation, in an amount equal to the lesser of—

(1) the amount finally determined under section 461, or

(2) 30 percent of the net worth of such employer determined as of the day 120 days prior to the date of termination, without regard to any liability under this section.

(c) NET WORTH.—For purposes of subsection (b)(2) the net worth of an employer means—

(1) in the case of a corporation whose stock is traded on a national exchange, the aggregate value of such corporation's stock, and

(2) in the case of any other employer, the fair market value of its assets less its liabilities determined in a manner consistent with section 2031 of the Internal Revenue Code of 1954.

(d) SUBORDINATION OF DEBT.—If any employer or employers liable to the corporation under this section or section 464 neglects or refuses to repay, after demand, the amount of such liability (including the interest) there shall be a lien in favor of the United States upon all property and rights of property, whether real or personal, belonging to such employer or employers, against the interest of any other creditor of such employer or employers, other than a lien under section 6321 or 6324 of the Internal Revenue Code of 1954 (relating to lien for taxes), or a lien or other security interest perfecting not later than 30 days after termination securing an obligation incurred by such employer or employers prior to termination. Notwithstanding the provisions of the preceding sentence, if the corporation determines, with the consent of the board of directors, that subordination of the lien to any other creditor of the employer or employers would not adversely affect the collection of such liability, or that the amount realizable by the corporation from the property to which the lien attaches will ultimately be increased by such subordination, and that the ultimate collection of the liability will be facilitated by such subordination, and the corporation issues a certificate of subordination of the lien with respect to such property, or any part thereof.

(e) SUCCESSOR LIABILITY.—For purposes of this section the following rules apply in the case of certain corporation reorganizations—

(1) CHANGE IN IDENTITY, ETC.—If an employer ceases to exist by reason of a reorganization which involves a mere change in identify, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the employer to whom this section applies.

(2) LIQUIDATION INTO PARENT.—If an employer ceases to exist by reason of a liquidation into a parent corporation, the parent corporation shall be treated as the employer to whom this section applies.

(3) REORGANIZATION.—If an employer ceases to exist by reason of a merger or consolidation, the successor corporation shall be treated as the employer to whom this section applies.

(f) REMAINING IN BUSINESS.—For purposes of subsection (a), an employer shall be considered to remain in business if, during the plan year within which the plan terminates or the 36-month period following the date of termination, the employer—

(1) is a party to a reorganization described in subsection (e), or

(2) continues to carry on the same business as, or a business similar to, the business in connection with which he maintained the plan which was terminated, without regard to whether he continues to carry on such business at the same location or at a different location.

For purposes of paragraph (2), in the case of a business in which sales are the primary income producing factors, if an employer's gross sales during the year of plan termination or during the 12-month period following the date of termination in such business are less than 25 percent of his average gross sales in such business for the 3 years immediately preceding that year, the employer shall not be considered to have remained in business.

(g) TERMINATION OF SUBSTANTIAL FACILITY.—If an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment the employer shall be treated with respect to that plan as if he were a substantial employer under a multiemployer plan and the provisions of sections 463 and 464 shall apply.

SEC. 463. LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL.

(a) GENERAL RULE.—Except as provided in subsection (d), the plan administrator of a multiemployer plan—

(1) shall notify the corporation of the withdrawal of a substantial employer from the plan, within 60 days after such withdrawal, and

(2) request that the corporation determine the liability of such employer under this title with respect to such withdrawal.

The corporation shall, as soon as practical thereafter, determine whether such employer is liable for any amount under this title with respect to the withdrawal and notify such employer of such liability.

(b) LIABILITY OF EMPLOYER. Except as provided in subsection (c) an employer who withdraws from a plan to which section 421 applies, during a plan year for which he was a substantial employer, and who is notified by the corporation as provided by subsection (a), shall be liable to the corporation in accordance with the provisions of section 461 (without regard to the provisions of paragraphs (1) and (2) of section 462(a)) and this section. The amount of such employer's liability shall be computed on the basis of an amount determined by the corporation to be the amount described in section 461 for the entire plan, as if the plan had been terminated by the corporation on the date of the employer's withdrawal, multiplied by a fraction—

(1) the numerator of which is the total amount contributed to the plan by such employer for the last 5 years ending prior to the withdrawal, and

(2) the denominator of which is the total amount contributed to the plan by all employers for such last 5 years.

Any amount collected by the corporation under this subsection shall be held in escrow subject to disposition in accordance with the provisions (2) and (3) of subsection (c).

(c) SPECIAL RULE.—

(1) FURNISHING OF BOND.—In lieu of payment of his liability under this section the employer may be required to furnish a bond to the corporation in an amount not exceeding 150 percent of his liability to insure payment of his liability under this section. Such bond shall be in such form and with such surety or sureties and upon such conditions as the corporation may require.

(2) NO TERMINATION WITHIN 5-YEAR PERIOD.—If the plan is not terminated within the 5-year period commencing on the day of withdrawal, the liability of such employer shall be abated and any payment held in escrow shall be refunded without interest to the employer (or his bond canceled) in accordance with by-laws or rules prescribed by the corporation.

(3) TERMINATION WITHIN 5-YEAR PERIOD.—If the plan terminates within the 5-year period commencing on the day of withdrawal, the corporation shall—

(A) demand payment or realize on the bond and hold such amount in escrow for the benefit of the plan;

(B) treat any escrowed payments under this section as if they were plan assets and apply them in a manner consistent with this title; and

(C) refund any amount to the employer which is not required to meet any obligation of the corporation with respect to the law.

(d) ALTERNATIVE PROCEDURE.—The provisions of this subsection shall apply in the case of a withdrawal described in subsection (a), and the provisions of subsections (b) and (c) shall not apply, if the corporation determines that the procedure provided for under this subsection is consistent with the purposes of this section and section 464 and is more appropriate in the particular case. Upon a showing by the plan administrator of a multiemployer plan that the withdrawal from the plan by any employer or employers has resulted, or will result, in a significant reduction in the amount of aggregate contributions to or under the plan by employers, the corporation may—

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under paragraph (1) to participants no longer in covered service as a termination; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan.

(e) NO WITHDRAWAL LIABILITY UNDER ALTERNATIVE PROCEDURE.—The corporation is authorized to waive the application of the provisions of subsections (b), (c), and (d) of this section to any employer or plan administrator whenever it determines that there is an indemnity agreement in effect among all other employers under the plan which is adequate to satisfy the purposes of this section and of section 464.

(f) RULES.—The corporation is authorized to prescribe rules as it deems necessary in order to implement the purposes of this section.

SEC. 465. LIABILITY OF EMPLOYERS ON TERMINATION OF MULTIEMPLOYER PLAN.

(a) APPLICATION OF SECTION.—This section shall apply to all employers who maintain a multiemployer plan at the time such plan is terminated.

(b) LIABILITY OF SUCH EMPLOYER.—The corporation shall determine the liability of each such employer in a manner consistent with section 462 except that the amount of the liability determined under section 462(b)(1) with respect to the entire plan shall be allocated to each employer by multiplying such amount by a fraction—

(1) the numerator of which is the amount contributed to the plan by each employer for the last 5 plan years ending prior to the termination, and

(2) the denominator of which is the total amount contributed to the plan by all such employers for such last 5 years,

and the limitation described in section 462(b)(2) shall be applied separately to each employer.

SEC. 465. ANNUAL REPORT OF PLAN ADMINISTRATOR.

For each plan year for which section 421 applies to a plan, the plan administrator shall file with the corporation, on a form prescribed by the corporation, an annual report which identifies the plan and plan administrator and which includes—

(1) a copy of each notification, required under section 463 with respect to such year, and

(2) a statement disclosing whether any reportable event (described in section 443(b)) occurred during the plan year.

The report shall be filed within 6 months after the close of the plan year to which it relates.

SEC. 466. ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.

The plan administrator of each multiemployer plan shall notify, within 6 months after the close of each plan year, any employer making contributions under that plan who is described in section 401(a)(2)(A) that he is a substantial employer for that year.

SEC. 467. RECOVERY OF EMPLOYER LIABILITY FOR PLAN TERMINATION.

(a) COLLECTION.—The corporation is authorized to make arrangements with employers, liable under section 462, 463, or 464 for payment of their liability, including arrangements for deferred payment on such terms and for such periods as the corporation deems equitable and appropriate.

(b) DISPOSITION OF EMPLOYER LIABILITY PAYMENTS.—Any amounts received by the corporation as payments of employer liability under this part may be retained by it and used to defray operating and administrative expenses.

PART E—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954; EFFECTIVE DATES

SEC. 481. AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.

(a) SECTION 401(a).—Section 401(a) (relating to requirements for qualification) is amended by inserting at the end thereof the following new paragraphs:

"(14) In the case of a plan which is required to register with the Secretary or his delegate under the provisions of section 151 of the Retirement Income Security for Employees Act, a trust forming part of such plan shall not constitute a qualified trust under this section unless the plan is so registered.

"(15) In the case of a plan which is required to provide for determination of disputes under the provisions of part A of title VI of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan so provides.

"(16) In the case of a plan to which section 421 of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan provides for the maintenance of insurance under title IV of such Act.

"(17) A trust shall not constitute a qualified trust under this section unless the plan of which it is a part provides that, unless the participant and his employer agree otherwise in writing, the payment of benefits under the plan to which section 411 applies will commence not later than the later of the thirtieth day after—

"(A) the date on which the participant attains the age of 65 years, or

"(B) the date on which the participant completes 10 years of participation in the plan.".

(b) SECTION 162.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i) and inserting after subsection (g) the following new subsection:

"(h) INSURED PENSION LOSSES.—No deductions shall be allowed under subsection (a) for any payment to the Pension Benefit Guaranty Corporation with respect to liability for a plan termination.".

(c) SECTION 4981.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—CERTAIN GUARANTEED BENEFIT PLANS

"Sec. 4981. EXCISE TAX ON PRIVILEGE OF MAINTAINING INSURED PLAN.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the privilege of maintaining a plan insured under the provisions of title IV of the Retirement Income Security for Employees Act a tax determined under subsection (b) for any plan year during which section 421 of such Act applies at any time.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under subparagraph (A) (in the case of a plan which is not a multiemployer plan) or subparagraph (B) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security of Employees Act.

"(2) ALTERNATIVE TAX.—In the case of a taxpayer to which subparagraph (C) (in the case of a plan which is not a multiemployer plan) or subparagraph (D) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security for Employees Act applies, the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under such subparagraph.

"(c) BY WHOM PAYABLE.—The tax imposed under subsection (a) shall be paid by the administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) of a plan.

"(d) EXCEPTION.—This section shall not apply with respect to a plan year in which the plan terminates under section 441 or 442 of the Retirement Income Security for Employees Act.

"(e) DEFINITION OF MULTIEMPLOYER PLAN.—The term 'multiemployer plan' means a plan described in section 401(3) of the Retirement Income Security of Employees Act.

"(f) CROSS REFERENCE.—

"For penalties and other general and administrative provisions applicable to this section, see subtitle F.".

(d) AMENDMENT OF SECTION 6511.—Section 6511(d) (relating to special rules applicable to income taxes) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO AMOUNTS INCLUDED IN INCOME SUBSEQUENTLY RECAPTURED UNDER QUALIFIED PLAN TERMINATION.—If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 445 of the Retirement Income Security for Employees Act, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.".

(e) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employees' annuity plan) is amended by striking out "and (8), and if applicable, the requirements of section 401(a) (9) and (10) and of section 401(d) (other than paragraph (1))," and inserting in lieu thereof "(8), (11), (12), 13, (15), (15), and (16), and, if applicable, the requirements of section 401(a) (9) and (10), of section 401(c)(6), and of section 401(d) (other than paragraph (1)),".

(2) Section 805(d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and 8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), (15), and (16)".

(f) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Certain guaranteed benefit plans.".

SEC. 482. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall take effect on the date of enactment of this Act.

(b) PRIVILEGE TAX.—The amendments made by section 481 shall apply with respect to plan years and taxable years beginning after December 31, 1973.

(c) TERMINATIONS; LIABILITY.—Part C and part D shall apply with respect to plan years beginning after December 31, 1976, unless the corporation determines that moneys in the fund are sufficient to enable it to meet its liability under section 461 with respect to terminations occurring before that date.

PART F—ALLOCATION OF ASSETS WHERE SECTION 444 DOES NOT APPLY

SEC. 491. ALLOCATION OF ASSETS FOR PLAN TERMINATIONS NOT COVERED.

(a) IN GENERAL.—If a plan to which this title applies is terminated and the provisions of section 444 do not apply to that termination, the administrator of the plan shall allocate the assets of the plan in accordance with the provisions of that section (without regard to the 3-year pay status for benefits rule of paragraph (3)).

(b) APPLICATION OF SECTION.—The provisions of subsection (a) shall apply with respect to the termination of any plan other than a plan which is in existence on the date of enactment of this Act and with respect to which there is in effect on such date a written provision governing allocation of assets under the plan upon termination.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

PART A—DISCLOSURE

AUTHORITY TO ISSUE REGULATIONS

SEC. 501. (a) The Secretary of Labor shall have authority to issue such rules and regulations as are necessary to implement the provisions of this Act and the Welfare and Pension Plans Disclosure Act.

(b) In order to avoid unnecessary expenses and duplication of functions among government agencies the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the Welfare and Pension Plans Disclosure Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable or other basis the facilities or services of any department, agency, or establishment of the United States or of any State including services of any of its employees with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and to the extent permitted by law to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

AMENDMENT TO WELFARE AND PENSION PLANS DISCLOSURE ACT

SEC. 502. (a) Section 3 of the Welfare and Pension Plans Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) The term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other asssets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 15 means either (A) at no more than the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer, or (C) if the price of the security is not quoted by persons independent of the issuer, a price determined to be the fair value of the security.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective-bargaining agreement (subject to the requirements of the Retirement Income Security for Employees Act), for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant has or will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term 'accrued portion of normal retirement benefit' means that amount of such benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal retirement benefit of a participant that, pursuant to rule or regulation under the Retirement Income Security for Employees Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

"(24) The term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of any employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act.".

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established", by inserting a comma after the word "unemployment", and by adding the following: "or benefits of the type described or permitted by section 302(c) of the Labor Management Relations Act".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by striking out the word "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means as to an employee benefit plan or fund, any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organizaion having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above-described persons. Whenever the term 'party in interest' is used in this Act, it shall mean a person known or should have been known to be a party in interest. If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a 'fiduciary' or a 'party in interest' as those terms are defined in this Act, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained herein shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other provision of law.".

(g) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(h) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(i) Section 4(b)(4) of such Act is repealed.

(j) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) Such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States."

(k) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs (whether or not the plan has terminated), including any period during which the plan has moneys or other assets

remaining and for one hundred and fifty days thereafter. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(l) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation, as to any class or type of employee benefit plans—

"(1) grant an exemption from all or part of the reporting, disclosure, and publication requirements of this Act; or

"(2) provide a variance in the form or manner of reporting, disclosure and publication required by this Act; or both,

if he finds that the exemption or variance is necessary or appropriate and consistent with the purposes of this Act. Any such exemption or variance may be granted on such conditions as the Secretary may deem appropriate. The Secretary shall prescribe by general rule simplified reports for plans which cover less than 100 participants and which maintain an employee benefit fund with less than $100,000 in assets, except that nothing contained herein shall preclude the Secretary from requiring any information or data from such plans where he finds such data or information necessary to carry out the purposes of this Act nor shall the Secretary be precluded from revoking provisions for simplified forms for any such plan if he finds it necessary to do so in order to carry out the objectives of this Act.".

(m) Section 6 of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"SEC. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) the description of the plan shall be comprehensive, written in a manner calculated to be understood by the average participant, and shall include the name and type of administration of the plan; the name and address of the administrator; the names and addresses of any person or persons responsible for the management or investment of plan funds; the schedule of benefits; a description of the provisions providing for vested benefits; the source of the financing of the plan and indentity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary.".

(n) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 15 of this Act or".

(o) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year (or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(p) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Sush audit shall be conducted subject to regulations of the Secretary and in accordance with generally accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.".

(q) Sections 7 (b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment, the value of which exceeds 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

'(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities; and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss, except that such schedule shall not include distribution of stock or other distributions in kind from profit-sharing or similar plans to participants separated from the plan;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) on sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); purchase or selling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and the material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the property), the identity of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lessees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipt from the lease, and with respect to any such leases in default, their identity, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of

the other party to the transaction and his relationship to the plan;

"(8) subject to rules of the Secretary designed to preclude the filing of duplicate or unnecessary statements, if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(r) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lowercase "t".

(s) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan,

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities,

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

"(6) a copy of the most recent actuarial report, and

"(A)(i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B)(i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same; and

"(7) such other reasonable information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe."

(t) Section 7 of such Act is further amended by striking out in their entirety subsections (f), (g), and (h).

ANNUAL REPORTS

SEC. 503. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual" and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), (d), and (e), to read as follows:

"(b) The Administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated, and any document so furnished shall be available for public inspection by the Secretary.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement contract, or other instrument under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish or make available, whichever is most practicable: (i) to every participant upon his enrollment in the plan and within one hundred and twenty days after each major amendment to the plan, a summary of the plan's important provisions, including the names and addresses of any person or persons responsible for the management or investment of plan funds, and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility, and the requirements of the Welfare and Pension Plans Disclosure Act with respect to the availability of copies of the plan bargaining agreement, trust agreement, contract or other instrument under which the plan is established or operated; and (ii) to every participant every three years (commencing January 1, 1975), a revised up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of any bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) The administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating, on the basis of the latest information available, (1) whether or not such person has a nonforfeitable right to a pension benefit, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable, and (3) the total pension benefits accrued.

"(e) In the event a plan is provided a variance with respect to standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the administrator shall furnish or make available, whichever is most practicable, notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary.".

INVESTIGATIONS

SEC. 504. (a) Section 9(d) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(d) The Secretary may make appropriate investigations when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act or the Welfare and Pension Plans Disclosure Act and in connection therewith he may require the filing of (1) any instruments under which the plan is and has been operated, and (2) supporting schedules of the financial information required to be furnished under either Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation, except that no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any rule or regulation issued thereunder. The Secretary shall make such arrangements as are necessary with the Secretary of the Treasury to preclude a duplication of effort with regard to investigation of violations relating to fiduciaries. For the purposes of any investigation described in this subsection, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents), of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officer designated by him. To the extent he considers appropriate the Secretary shall delegate his auditing and investigative functions under this section with respect to insured banks acting as fiduciaries of employee benefit plans to the 'appropriate Federal banking agency' as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).".

(b) Subsection (h) of section 9 of such Act is repealed and subsection (i) of such section is redesignated as subsection (h).

PUBLIC INFORMATION

SEC. 505. Section 10 of the Welfare and Pension Plan Disclosure Act is amended to read as follows:

"REPORTS MADE PUBLIC INFORMATION: RESEARCH AND STATISTICS

"SEC. 10. (a) The contents of plan descriptions and annual reports filed with the Secretary pursuant to this Act shall be public information and the Secretary may publish any such information and data as he may deem appropriate.

"(b) The Secretary shall develop and maintain a comprehensive and effective program of collection, compilation, and analysis of employee benefit plan information and data. Such program shall relate to information and data whether or not required to be furnished by this Act or the Retirement Income Secu-

rity for Employees Act and to employee benefit plans whether or not subject to these Acts. Moreover the Secretary is authorized and directed to undertake appropriate studies relating to employee benefit plans including, but not limited to, the effects of the Retirement Income Security for Employees Act upon the provisions and costs of pension and profit-sharing retirement plans, the role of private pensions in meeting requirement security needs of the Nation, as well as alternative methods of providing additional retirement security, the administration and operations of pension plans including types and levels of benefits, degree of reciprocity of portability, financial characteristics and practices, methods of encouraging the growth of private pension and profit-sharing retirement plans, and the adequacy of coverage under this Act and the Retirement Income Security for Employees Act. Without limiting the generality of the foregoing, the Secretary shall also undertake a special study of the sufficiency of the provisions of the Retirement Income Security for Employees Act as applied to high mobility employees and shall recommend such changes in existing law and regulations as may be appropriation to afford such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their occupations or professions, and such other changes as may be appropriate to provide more adequate protection to such employees. In developing such recommendations, the Secretary shall consult with appropriate Federal and State agencies, professional societies, industry and labor representatives, and other professional societies, industry and labor representatives, and other interested groups with specialized knowledge of the problems of high mobility workers. This special study shall be completed and submitted to the Congress within three years after enactment of the amendments to this Act.

"(c) To carry out his duties under this subsection the Secretary may—

"(1) promote, encourage, or directly engage in programs of studies, information, and communication concerning employee benefit plans;

"(2) compile and publish such studies, analyses, reports, and surveys as he may deem appropriate;

"(3) arrange, through grants or contracts for the conduct of such research and investigations as he may deem appropriate;

"(4) make such agreements as are necessary to maintain the confidentiality of the source of any information furnished pursuant to a request by the Secretary for use in connection with the collection, compilation, and analysis of employee benefit plan information and data.".

ESTABLISHMENT OF ADVISORY COUNCIL

SEC. 506. Section 14 of such Act is amended to read as follows:

"ADVISORY COUNCIL

"SEC. 14. (a) (1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of twenty-one members appointed by the Secretary. Not more than eleven members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or organizations which they shall represent and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, five shall be representatives of labor organizations; five shall be representatives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accounting field; and six representatives shall be appointed from the general public, three of whom shall be persons representing those receiving benefits from a private pension plan.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, seven shall be appointed for terms of two years, and eight shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive 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.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and the Retirement Income Security for Employees Act and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act and the Retirement Income Security for Employees Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and the Retirement Income Security for Employees Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties."

ADMINISTRATION

SEC. 507. Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) In addition to the number of positions authorized by subsection (a), the Secretary of Labor is authorized, without regard to any other provision of this subsection to place a total of 20 positions in the Department of Labor in GS–16 and 17.".

PART B—FIDUCIARY STANDARDS

Subpart I—Fiduciary Standards Under the Welfare and Pension Plans Disclosure Act

AMENDMENT TO THE WELFARE AND PENSION PLANS DISCLOSURE ACT

SEC. 511. The Welfare and Pension Plans Disclosure Act is amended by redesignating sections 15, 16, 17, and 18 as sections 17, 18, 19, and 20, respectively and by inserting immediately after section 14 the following new sections:

"FIDUCIARY STANDARDS

"SEC. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established or maintained pursuant to a duly executed written document which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b) (1) A fiduciary shall discharge his duties with respect to the fund—

"(A) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(B) subject to the standards in subsection (a) and in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficaries thereof or, if the trust agreement so provides, to the contributors thereto; (ii) that in the case of a registered pension or profit-sharing-retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act; and (iii) any assets of the fund, attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination shall be equitably distributed to the employee contributors according to their rate of contribution.

"(2) A fiduciary is prohibited from engaging in the following transactions:

"(A) holding or purchasing on behalf of the fund any security which has been issued by an employer or employer-group whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, or employee-group, if such investment, which when added to such securities already held, exceeds 7 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 7 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift, or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 7 per centum limitation until the expiration of one year from the date of enactment of this section. Nothing contained in this subparagraph shall be construed to relieve profit-sharing, stock bonus, thrift and savings or other similar plans from any other applicable requirements of this section. For the purposes of this subparagraph the leasing (or a purchase in connection with such lease) of real property and personal property related to such real property to an employer or employer-group by a plan shall be deemed to be a security of such employer or employer-group;

"(B) any fund other than a profit-sharing, stock bonus, thrift savings plan, etc., holding securities of an employer or employer group which employs participants in such plan, in excess of 7 per centum of the fair market value of such fund on the effective date of this section shall, within 5 years after the effective date of this section, divest not less than 50 per centum of such excess and

shall, not later than 10 years after the effective date of this section divest not less than 100 per centum of such excess.

"(3) Except as provided in subsection (c), a fiduciary shall not engage in a transaction with respect to a trust which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a fiduciary whereby he deals in his own interest for his own account;

"(F) receipt by a party in interest from any party dealing with the trust in a transaction involving the trust; or

"(G) represent any other party with such fund or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries.

"(4) The Secretary, in conjunction with the Secretary of the Treasury, shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (3) of this subsection.

An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph the Secretaries shall assure that such exemption is (A) administratively feasible, (B) in the interests of the fund, and (C) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan. Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice which shall include publication in the Federal Register, to interested persons, of the pendency of such exemptions.

"(c) The prohibitions provided in subsection (b) (3) shall not apply to—

"(1) any loan made by the trust to parties in interest who are participants or beneficiaries (other than an owner within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954 or a proprietary employee within the meaning of section 412(c)(1) of such Code) of the plan if such loans are (i) available to all such participants on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured;

"(2) a fiduciary receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds, except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) the receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the plan;

"(4) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(5) following the specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b)(3);

"(6) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (a) or (b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the excise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the excise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of responsibility, obligation, or duty of a fiduciary shall be liable for any consequence to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act as a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object to in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) No fiduciary may be relieved from any responsibility, obligation, or duty imposed by law, by any agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries subject to regulations promulgated by the Secretary.

"(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(h) No fiduciary shall permit any assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rules or regulations.

"(i) Any party in interest who participates in a transaction prohibited by this Act knowingly, or with reason to know that the transaction was a transaction to which this Act applies, shall be personally liable to make good to the fund any losses sustained by the fund resulting from such transaction, and to pay to the fund any profits realized by him from such transaction.

"(j) For the purposes of this section a transfer of real or personal property by a party in interest to a trust to which the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of tranfer.

"(k) For the purposes of this section the term 'employer-group' means any controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code of 1954) of which the employer who maintains the plan is a member.

"(l) This section shall not apply to—

"(1) funds held by an insurance carrier unless that carrier holds funds in a separate account,

"(2) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(3) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(4) a plan established or maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless that plan is taxable under chapter 45 of such Code.

"PROHIBITION OF FIDUCIARY SERVICES

"SEC. 16. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended; 29 U.S.C. 186), a violation of chapter 63 of title 18, United State Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended; 29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties), or fiduciary of any employee benefit plan, or

"(2) as a consultant to any employee benefit plan, during or for five years after a conviction or after the end of an imprisonment for any crime listed in this paragraph, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in subparagraph (A) or (B) would not be contrary to the purpose of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceedings by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final.

"(b) Any person who willfully violates this section, or knowingly permits another person to violate this section, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) For purposes of this section—

"(1) any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is later, regardless of when such conviction occurred;

"(2) the term 'imprisonment' shall not include any period of parole; and

"(3) 'consultant' means any person who, for pecuniary benefit, direct or indirect, advises or represents an employer benefit plan, concerning the establishment or operation of such plan.".

EFFECTIVE DATES

SEC. 512. Th eamendments made by part A and subpart I of part B of this title shall be effective January 1, 1974, except for those amendments dealing with prohibited transactions which shall be effective January 1, 1975.

Subpart II—Fiduciary Standards Under the Internal Revenue Code of 1954

SEC. 521. FIDUCIARY STANDARDS.

(a) DUPLICATION OF EFFORT.—In order to avoid unnecessary expense and duplication of functions among Government agencies the Secretary of Labor and the Secretary of the Treasury shall make arrangements or agreements for cooperation and mutual assistance. Any information coming to the attention of the Secretary of the Treasury in the course of his administration of this section which may warrant consideration for criminal prosecution under the warded to the Secretary of Labor for immediate transmittal to the Attorney General.

(b) COOPERATION WITH REGARD TO INVESTIGATIONS.—The Secretary of the Treasury shall make such arrangements as are necessary with the Secretary of Labor to preclude a duplication of effort with regard to investigations of violations relating to fiduciaries.

(c) ADMINISTRATION.—

(1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to this section.

(2) The Secretary of Labor, in conjunction with the Secretary of the Treasury, shall promulgate rules and regulations for the administration and enforcement of this section with regard to prohibited transactions under section 522(d)(1).

SEC. 522. PROHIBITED TRANSACTIONS.

(a) AMENDMENT OF SECTION 503.—Section 503 (relating to requirements for exemption) is amended—

(1) by striking out "or (18)" in subsection (a)(1)(A),

(2) by striking out subsection (a)(1)(B) and by redesignating subsection (a)(1)(C) as (a)(1)(B),

(3) by striking out "or section 401(a)" in subsections (a)(2) and (c),

(4) by striking out subsections (d), (f), and (g) and redesignating subsection (e) as (d).

(b) EXCISE TAX ON PROHIBITED TRANSACTIONS.—Chapter 44 of subtitle D (relating to miscellaneous excise taxes) (as added by section 241 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 4974. EXCISE TAX ON PROHIBITED TRANSACTIONS.

"(a) INITIAL TAXES ON PARTY IN INTEREST.—There is hereby imposed a tax on each prohibited transaction at the rate of 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any party in interest who participates in the prohibited transaction.

"(b) ADDITIONAL TAXES ON PARTY IN INTEREST.—In any case in which an initial tax is imposed by section (a) on a prohibited transaction and the transaction is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any party in interest who participated in the prohibited transaction.

"(c) SPECIAL RULE.—For purposes of subsections (a) and (b) if more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one prohibited transaction, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(d) PROHIBITED TRANSACTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'prohibited transaction' means a transaction between a party in interest and an employee's trust described in section 401(a), a plan described in section 404(a)(2), or a qualified individual retirement account described in section 408(a), which is exempt from tax under section 501(a) (or which, at any time, has been determined by the Secretary or his delegate to be such a trust, plan, or account) and which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a party in interest whereby he deals with the assets of the trust in his own interest;

"(F) receipt of consideration from any party in interest by any party dealing with the trust in a transaction involving the trust.

"(2) SPECIAL RULES.—For the purposes of paragraph (1)—

"(A) EXEMPTION.—The Secretary, in conjunction with the Secretary of Labor shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (1) of this subsection. An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph, the Secretaries shall assure that such exemption is (i) administratively feasible, (ii) in the interests of the fund, and (iii) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan. Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice to interested persons, which shall include publication in the Federal Register, of the pendency of such exemptions;

"(B) ENCUMBERED PROPERTY. A transfer of real or personal property by a party in interest to a trust to which this section applies shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of the transfer;

"(C) LOANS TO PARTICIPANTS.—Any loan made by the trust to parties in interest who are participants or beneficiaries (other than an owner employee within the meaning of section 401(c)(3)) of the qualified plan is not a prohibited transaction if such loans are (i) available to all such participants or beneficiaries on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured.

"(D) COMPENSATION TO FIDUCIARY.—Receiving any reasonable compensation for service rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds is not a prohibited transaction except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan, shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed.

"(E) LEASE ARRANGEMENTS BETWEEN PLANS AND EMPLOYERS OF PARTICIPANTS.—The leasing (or a purchase in connection with such lease) of real property and personal property related to such real property to an employer or employer-group by a pension plan shall not be a prohibited transaction if such agreements do not exceed the limitations imposed by section 15(c)(6)(A) of the Welfare and Pension Plans Disclosure Act. For the purposes of this paragraph the term 'employer-group' means any controlled group or corporation (as defined in section 1563(a)) of which the employer who maintains the plan is a member.

"(F) ACTIONS IN ACCORDANCE WITH GOVERNING DOCUMENT.—It is not a prohibited transaction to—

"(i) contract or make reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and to pay reasonable compensation therefor;

"(ii) follow specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in this section; or

"(iii) take action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the prohibitions of this section.

"(G) FIDUCIARY OR PARTY IN INTEREST AS PARTICIPANTS.—The receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the qualified plan is not a prohibited transaction.

"(H) OTHER OFFICES.—It is not a prohibited transaction for a fiduciary to serve as an officer, employee, agent, or other representative of a party in interest.

"(I) EXCLUSIONS.—A qualified plan or part thereof does not include—

"(i) funds held by an insurance carrier unless that carrier holds the funds in a separate account,

"(ii) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(iii) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(iv) a plan established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a), unless that plan is taxable under chapter 45 (relating to certain guaranteed benefit plans).

For purposes of this subparagraph, the term 'separate account' means an account established or maintained by an insurance company under which income expenses, gains, and losses (whether or not realized) from assets allocated to such account are credited or charged against the account in accordance with the applicable contract without regard to other income expenses, gains, or losses of the insurance company.

"(J) DISTRIBUTION TO EMPLOYER.—It is not a prohibited transaction for a fiduciary to make a distribution of the residual assets of the trust in accordance with the terms of the plan, and not in contravention of existing law, to the employer who maintains the plan after all liabilities of the plan with respect to participants and their beneficiaries have been satisfied, except that any assets of the fund attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination, shall be equitably distributed to the employee contributors according to their rate of contribution.

"(e) FIDUCIARY AND PARTY IN INTEREST.—

"(1) PARTY IN INTEREST.—For purposes of this section, the term 'party in interest' means, with respect to a qualified plan, a person who is—

"(A) with respect to a particular pro-

hibited transaction, a fiduciary who benefits from the particular prohibited transaction;

"(B) an administrator, officer, trustee, custodian, counsel of, or person providing benefit plan services to, a qualified plan;

"(C) an employer any of whose employees are covered by such a plan;

"(D) an employee organization any of whose numbers are covered by such a plan;

"(E) an owner, direct or indirect, of 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation,

"(ii) the capital interest or the profits interest of a partnership, or

"(iii) the beneficial interest of a trust or unincorporated enterprise,

which is an employer or an employee organization described in subparagraph (C), (D);

"(F) a member of the family (as defined in paragraph (5)) of any individual described in subparagraph (A), (B), (C), or (E);

"(G) a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

"(ii) the capital interest or profit-interest of such partnership, or

"(iii) the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D), or (E);

"(H) a corporation which is owned in the manner described in subparagraph (G) by a person who is a person described in subparagraph (E);

"(I) an officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10 percent or more shareholder, or highly compensated employee (earning 10 percent or more of the yearly wages of an employer) of a person described in subparagraph (C), (D), (E), (G), or (H); or

"(J) a 10 percent or more (in capital or profits) partner of a person described in subparagraph (C), (D), (E), (G), or (H).

"(2) FIDUCIARY.—For purposes of this section, the term 'fiduciary' with respect to a qualified plan means—

"(A) any person who—

"(i) exercises any power of control, management or disposition with respect to any moneys or other property of a qualified plan, or

"(ii) has authority or responsibility to exercise such powers,

If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, the investment shall not cause that investment company or that investment company's investment adviser or principal underwriter to be treated as a fiduciary or a party in interest for purposes of this section, except when an investment company or its investment adviser or principal underwrite acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, its investment adviser, or its principal underwriter.

"(3) STOCKHOLDINGS.—For purposes of paragraphs (1)(E)(i), (G)(i), and (H), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(4) PARTNERSHIPS; TRUSTS.—For purposes of paragraphs (1)(E)(ii) and (iii), (G)(ii) and (iii) and (J), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(5) MEMBER OF FAMILY.—For purposes of paragraph (1)(F), the family of any individual shall include his spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency pursuant to section 6212, with respect to the tax imposed by subsection (a), or

"(B) the date on which correction of the prohibited transaction is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to a prohibited transaction, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subparagraph (d)(2)(C) or (D) the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"(A) in the case of the tax imposed by subsection (a), shall be determined as of the date on which the prohibited transactions occurs; and

"(B) in the case of the tax imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to a prohibited transaction, undoing the transaction to the extent possible, but in any case placing the plan in a financial position not worse than that in which it would be if the prohibited transaction had not occurred.

"(4) CORRECTION PERIOD.—The term 'correction period' means, with respect to a prohibited transaction the period beginning with the date on which the prohibited transaction occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to bring about the correction of the prohibited transaction.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 44 (relating to qualified pension plans), which was added by section 241 of this Act, is amended by adding at the end thereof the following new item:

"SEC. 4974. Excise tax on prohibited transactions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975.

(c) SAVINGS PROVISION.—Section 4974 of the Internal Revenue Code of 1954 (relating to excise tax on prohibited transactions) shall not apply to—

(1) a loan of money or other extension of credit between a trust and a party in interest under a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract) until August 22, 1983, if such loan or other extension of credit remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be, and if the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law);

(2) a lease or joint use of property involving the trust and a party in interest pursuant to a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract), until August 22, 1983, if such lease or joint use remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be and if the execution of the contract was not, at the time of such execution, a prohibited transaction (within the meaning of section 503(b)) or the corresponding provisions of prior law;

(4) the sale, exchange, or other disposition of property described in paragraph (3) between a trust and a party in interest before August 22, 1983, if—

(A) in the case of a sale, exchange, or other disposition of the property by the trust to the party in interest, the trust receives an amount which equals or exceeds the fair market value of the property at the time of such disposition; and

(B) in the case of the acquisition of the property by the trust, the trust pays an amount which is not in excess of the fair market value of the property at the time of acquisition.

TITLE VI—ENFORCEMENT

PART A—DISPUTES RELATING TO THE QUALIFICATION OF CERTAIN EMPLOYEE PLANS

SEC. 601. TAX COURT PROCEDURE.

(a) IN GENERAL.—Subchapter C of chapter 76 of the Internal Revenue Code of 1954 (relating to the tax court) is amended by adding at the end thereof the following new part:

"PART IV—DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN EMPLOYEE PLANS

"Sec. 7476. Declaratory judgments.
"Sec. 7477. Procedure.

"SEC. 7476. DECLARATORY JUDGMENTS.

"(a) JURISDICTION.—The United States Tax Court shall have jurisdiction under this part to hear controversies and to enter judgments declaring whether a plan established by an employer for his employees is a qualified plan as defined in subsection (b). Any such judgment by the Court constitutes its decision in the proceeding and shall be reviewable in the same manner as any other decisions of the Court.

"(b) QUALIFIED PLAN DEFINED.—As used in this part, the term 'qualified plan' means—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(c) EXHAUSTION OF ADMINISTRATIVE REMEDIES, ETC.—The Tax Court shall not issue a declaratory judgment under this part in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service and that the plan with respect to which the judgment is sought has been put into effect prior to the commencement of the proceeding before the Tax Court. A plan shall be treated as in effect even though it includes a provision that the funds contributed to it may be refunded in the event the plan is found by the Secretary or his delegate or by the Tax Court not to be a qualified plan.

"(d) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this part to be heard by the commissioners of the court, and the court may authorize a commissioner to enter the decision of the court with respect to such proceeding, sub-

ject to such conditions and review as the court may be rule provide.

"SEC. 7477. PROCEDURE.

"(a) RIGHT TO BRING ACTION.—

"(1) ACTIONS BROUGHT BY EMPLOYER OR TRUSTEE; INTERVENTION BY EMPLOYEE.—An action for a declaratory judgment under this part may be brought by an employer who has established a pension, profit sharing, stock bonus, annuity, or bond purchase plan and who has submitted to the Secretary or his delegate a request for a determination that the plan is a qualified plan, that, if amended in accordance with a proposed amendment, it will continue to be a qualified plan, or that termination of the plan in accordance with a proposed plan of termination will not result in the plan being treated as not a qualified plan for the plan year during which the termination occurs. If such a request was submitted by the trustee of the plan, the action for a declaratory judgment may be brought by the trustee. If the action is brought by the employer or the trustee, an employee of that employer may intervene in the proceeding if—

"(A) he intervened in the proceeding before the Internal Revenue Service relating to the requested determination, or

"(B) the employer or trustee failed to provide notice to employees of the submission of the request for a determination at, or prior to, the time at which the request was submitted to the Secretary or his delegate.

"(2) ACTIONS BROUGHT BY EMPLOYEES; INTERVENTION BY EMPLOYER.—An action for a declaratory judgment with respect to a determination obtained by an employer or by a trustee may also be brought by an individual who was an employee of the employer during the period with respect to which the judgment is sought. In any such action brought by an employee, the employer may intervene.

"(b) TIME FOR BRINGING ACTION.—

"(1) 90-DAY PERIOD.—Except as provided in paragraph (2), an action for declaratory judgment under this part must be commenced within 90 days after the date on which the Secretary or his delegate sends by certified or registered mail his determination with respect to the qualification of the plan to the person requesting such determination.

"(2) FAILURE TO ISSUE DETERMINATIONS; EXTENSIONS OF TIME.—If the Secretary or his delegate fails to issue a determination, an action for a declaratory judgment, a requested determination with respect to the qualification of a pension, profit sharing, stock bonus, annuity, or bond purchase plan, or with respect to a proposed amendment or termination of a qualified plan, within 270 days after the filing with him of the request for such determination, an action for a declaratory judgment under this part may be commenced within 90 days after the expiration of such 270-day period. If, prior to the expiration of such 270-day period, the Secretary or his delegate and the person requesting the determination consent in writing to an extension of such period, the 90-day period for commencing an action shall not begin to run until the expiration of the extended period agreed to by the parties.

"(c) BURDEN OF PROOF.—The person bringing an action for declaratory judgment under this part shall have the burden of proof with respect to any ground which was set forth in the determination by the Secretary or his delegate in such manner as to inform the person adequately of the reasons for the determination. The Secretary or his delegate shall have the burden of proof with respect to any ground on which he relies in the proceeding for a declaratory judgment and which was not set forth in his determination in such manner. If the Secretary or his delegate did not issue a determination, he shall have the burden of proof with respect to any ground on which he relies in a proceeding under this part.".

(b) TECHNICAL AMENDMENTS.—

(1) FEE FOR FILING PETITION.—Section 7451 (relating to fee for filing petition) is amended by striking out "deficiency" and inserting in lieu thereof "deficiency or for a declaratory judgment under part IV of this subchapter".

(2) DATE OF DECISION.—Section 7459(c) (relating to date of decision) is amended by inserting before the period at the end of the first sentence the following: "or, in the case of a declaratory judgment proceeding under part IV of this subchapter, the date specified by the Tax Court in its decision".

(3) VENUE FOR APPEAL OF DECISION.—Section 7482(b)(1) (relating to venue) is amended by adding at the end thereof the following new sentence: "In the case of declaratory judgment of the Tax Court, the rules of this paragraph shall be applied with respect to the employer.".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Part IV. Declaratory judgments relating to qualification of certain employee plans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975.

PART B—AUDITING; ETC.

SEC. 641. EXCISE TAX FOR AUDITING; ETC.

(a) ANNUAL TAX ON PLANS PARTICIPATION.—Chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new section:

"SEC. 4975. ANNUAL TAX ON PLAN PARTICIPATION.

"(a) GENERAL RULE.—For the calendar year beginning on January 1, 1974, and each calendar year thereafter, there is hereby imposed a tax equal to $1 per participant under a plan established by the employer which is—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the employer of such participant under such plan.

"(c) SPECIAL RULES.—

"(1) The tax imposed by subsection (a) shall not apply to participants under a plan established and maintained by the United States; a State or political subdivision thereof; or a corporation which is an instrumentality of the United States, a State or political subdivision thereof.

"(2) In the case of a plan which is established pursuant to an agreement which the Secretary or his delegate determines to be a collective-bargaining agreement, see section 413.

"(3) For purposes of this section, a plan established by the employer includes a plan established by a predecessor of the employer.

"(d) DEFINITION OF PARTICIPANT.—For purposes of this section, the term 'participant' means an individual who is—

"(1) actively employed by the employer at any time during the calendar year.

"(2) entitled to make contributions to or to have amounts contributed to or under the plan on his behalf by the employer, and

"(3) not currently receiving benefits under the plan.

"(e) REGULATIONS.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) CROSS REFERENCE.—

"For disallowance of taxes paid under this section as a deduction, see section 275.".

(b) CLERICAL AMENDMENT.—The table of sections of chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new item:

"Sec. 4974. Annual tax on plan participation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 1973.

PART C—ACTUARIES

SEC. 671. ENROLLMENT AND REPORTS OF ACTUARIES.

(a) REPORTS, STATEMENTS, AND NOTICES BY ACTUARIES.—Part III of chapter 61 (relating to information and returns) is amended by inserting at the end thereof the following new subpart:

"Subpart E—Reports, Statements, and Notices by Actuaries

"Sec. 6058. Periodic report and statement of actuary.

"SEC. 6058. PERIODIC REPORT AND STATEMENT OF ACTUARY.

"(a) GENERAL RULE.—The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) with respect to each defined benefit plan to which section 4971(e) does not apply, for the first plan year for which this section applies to the plan and each third plan year thereafter (or more frequently if the Secretary or his delegate determines that more frequent reports or statements are necessary).

"(b) ACTUARIAL REPORT.—The actuarial report of a plan required by subsection (a) shall be prepared by an enrolled actuary (within the meaning of section 7517) and shall contain—

"(1) a description of the plan,

"(2) a description of the funding method and actuarial assumptions used to determine costs under the plan,

"(3) a certification that the funding standard account required under section 4971(b)(1) has been maintained during the period to which the report relates,

"(4) such other information regarding the plan as the Secretary or his delegate may by regulations require, and

"(5) a statement—

"(A) that to the best of his knowledge the report is complete and accurate, and

"(B) of his opinion regarding the reasonableness of the funding method and actuarial assumptions used to determine the normal costs of the plan.

"(c) TIME AND MANNER OF FILING.—The actuarial report and statement required by subsection (a) shall be filed at the time and in the manner provided by regulations prescribed by the Secretary or his delegate."

(b) ASSESSABLE PENALTIES.—Subchapter B of chapter 69 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6692. FAILURE TO FILE ACTUARIAL NOTICE, REPORT, OR STATEMENT.

"The plan administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) of a defined benefit plan to which section 6058 applies who fails to file the report or statement required by that section at the time and in the manner required by that section, shall pay a penalty of not to exceed $1,000 for each such failure unless it is shown that such failure is due to reasonable cause.".

(c) ENROLLMENT OF ACTUARIES.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting at the end thereof the following new section:

"SEC. 7517. ENROLLMENT OF ACTUARIES.

"The Secretary or his delegate shall, by regulations, establish reasonable standards and qualifications for persons performing actuarial services described in section 6058

and shall enroll persons found by the Secretary or his delegate to satisfy such standards and qualifications. The Secretary or his delegate may, after notice and an opportunity for a hearing, suspend or terminate the enrollment of an actuary under this section if the Secretary or his delegate finds that the actuary has not satisfied requirements for enrollment. For purposes of this title, the term 'enrolled actuary' means a person who is enrolled by the Secretary or his delegate pursuant to this section."

(d) CLERICAL AMENDMENTS.—

(1) The table of subparts for part III of chapter 61 is amended by inserting at the end thereof the following new item:

"Subpart E—Reports, statements, and notices by actuaries.".

(2) The table of sections for subchapter B of chapter 68 is amended by inserting at the end thereof the following new item:

"Sec. 6992. Failure to file actuarial notice, report, or statement.".

(3) The table of sections for chapter 77 is amended by inserting at the end thereof the following new item:

"Sec. 7517. Enrollment of actuaries.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply for plan years beginning on or after January 1, 1976.

(2) The amendments made by subsections (c) and (d) shall take effect on the date of enactment of this Act.

PART D—ENFORCEMENT; RESOLUTION OF DISPUTES GENERALLY

SEC. 691. ARBITRATION; CIVIL ACTIONS BY PARTICIPANTS AND BENEFICIARIES.

(a) ARBITRATION PROCEDURE.—Each employee pension benefit plan subject to this part shall provide—

(1) a procedure for the fair and just review under the plan of any dispute between the administrator of the plan and any participant or beneficiary of the plan, and

(2) an opportunity, after such review and a decision by the administrator (or a failure to make a decision within a reasonable period of time by the administrator), for the arbitration of such disputes.

(b) CIVIL ACTIONS.—A participant or beneficiary of such a plan may bring a civil action in accordance with the provisions of section 693 of this Act in lieu of submitting the dispute to arbitration under the plan.

(c) ALTERNATIVE PROCEDURES.—If a dispute under a plan is subject to procedures established by collective bargaining for the resolution of such dispute, the Secretary of Labor, upon written request by a plan administrator, may waive the application or subsections (a), (b), and (e) to such dispute if he determines that the procedures provided for are reasonably fair and effective.

(d) APPLICATION OF LAW RELATING TO SECTION 301 OF LABOR MANAGEMENT RELATIONS ACT, 1947.—The arbitration of disputes in accordance with the requirements of this section, and judicial proceedings relating thereto, shall be governed by the laws, decisions, and rules applicable to the arbitration of disputes under section 301 of the Labor Management Relations Act, 1947.

(e) PAYMENT OF ARBITRATION COSTS.—The cost of any arbitration proceedings required under this section (including arbitrators' fees) shall be paid by the plan under which the dispute arises, unless the arbitrator determines that a participant's or beneficiary's allegations are frivolous and assesses all or a portion of such cost to that party.

(f) INFORMATION AND ASSISTANCE.—The Secretary shall inform participants and their beneficiaries under plans to which this part applies of their rights under this part. The Secretary is authorized to furnish assistance to such participants and their beneficiaries in obtaining such rights.

(g) The Secretary shall prescribe rules and regulations necessary to carry out this section.

SEC. 692. CIVIL ACTIONS BY SECRETARY OF LABOR.

Whenever the Secretary believes that an employees' benefit fund is being or has been administered in violation of the requirements of the Welfare and Pension Plans Disclosure Act and the Retirement Income Security for Employees Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any participant or beneficiary due to violation of the requirements of such Act, or of the requirements of this Act and the Retirement Income Security for Employees Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, or of this Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 16(h) of the Welfare and Pension Plans Disclosure Act and the Retirement Income Security for Employees Act.

SEC. 693. ACTIONS TO REDRESS OR RESTRAIN VIOLATIONS OF FIDUCIARY DUTY.

Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation, or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act or against any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated. In all civil actions authorized by this Act or the Welfare and Pension Plans Disclosure Act, attorneys appointed by the Secretary shall represent the Secretary except as provided in section 518(a) of title 28, United States Code (relating to litigation before the Supreme Court of the United States).

SEC. 694. JURISDICTION OF COURTS.

Suits by a participant or beneficiary for benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act, may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits due him required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify his rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

SEC. 695. PROCEDURE.

(a) SERVICE.—The jurisdiction of any court competent to hear an action brought by a participant or beneficiary under section 693 or 694 shall be conditioned upon the service of a copy of the complaint upon the Secretary by certified mail, who shall have the right in his discretion to intervene in the action.

(b) REMOVAL.—Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 693 or 694 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

SEC. 696. APPLICATION OF ACT OF MARCH 23, 1932.

The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

SEC. 697. ACTIONS BROUGHT BY ADMINISTRATOR OR FIDUCIARY AGAINST SECRETARY.

Suits by an administrator or fiduciary of an employee benefit plan subject to this Act or the Welfare and Pension Plans Disclosure Act, to review a final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of such Acts, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

SEC. 698. STATUTE OF LIMITATIONS.

Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the violation occurs. In the case of fraud or concealment, such action, suit, or proceeding shall be commenced within five years of the date of discovery of such violation.

SEC. 699. RELATIONSHIP TO STATE LAWS.

(a) PRE-EMPTION OF STATE LAWS.—It is hereby declared to be the express intent of Congress that, except for actions authorized by section 694 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insur-

ance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) JURISDICTION OF STATE COURTS.—Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting an accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the Court or seeking an interpretation of the trust instrument or other document governing the fund. In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting for or on behalf of employee benefit plans or on behalf of employee benefit funds subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the employee benefit plan or fund affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by certified mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

SEC. 699A. RECRIMINATION AGAINST EMPLOYEES AND OTHER PERSONS.

It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan, this Act, or the Welfare and Pension Plans Disclosure Act, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. It shall be unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has given information or has testified or is about to testify in any inquiry or proceeding relating to this Act or the Welfare and Pension Plans Disclosure Act. The provisions of sections 692 and 693 shall be applicable in the enforcement of this section.

SEC. 699B. INTERFERENCE WITH RIGHTS

It shall be unlawful for any person through the use of fraud, force, violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. Any person who willfully violates this section shall be fined $10,000 or imprisoned for not more than one year, or both.

TITLE VII—RETIREMENT SAVINGS; LIMITATION ON PROPRIETARY EMPLOYEE CONTRIBUTIONS; TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS

SEC. 701. DEDUCTION FOR RETIREMENT SAVINGS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220 and inserting after section 218 the following new section:

"SEC. 219. RETIREMENT SAVINGS

"(a) DEDUCTION ALLOWED.—Subject to the limitations imposed by subsections (b) and (c), in the case of an individual, there shall be allowed as a deduction amounts paid in money during the taxable year by such individual for his benefit—

"(1) to or under a qualified individual retirement account described in section 408 (a) which is exempt from tax under section 501(a), or

"(2) for a qualified individual retirement bond purchase described in section 409, unless the bond is redeemed within 12 months after its issuance and no interest is payable on account of the application of section 409(b)(1)(D)(iii).

"(b) LIMITATIONS.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amount allowable as a deduction under subsection (a) to an individual for any taxable year shall not be less than the lesser of his earned income paid or accrued for such taxable year up to a deduction of $1,000, nor more than 15 per centum of his earned income paid or accrued for such taxable year, up to a deduction of $1,500.

"(2) PARTICIPATION IN CERTAIN OTHER PLANS.—No deduction shall be allowed under this section for the individual's taxable year if, at any time during such taxable year, he is an active participant in—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan which meets the requirements of section 404(a)(2),

"(C) a qualified bond purchase plan described in section 405(a),

"(D) an annuity plan described in section 403(b), or

"(E) a plan established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State.

"(3) REDUCTION FOR CERTAIN EMPLOYER ACCOUNTS.—If an individual is a participant in an account described in section 408(a)(8) for the taxable year, the amount of the limitation otherwise determined under paragraph (1) of this subsection for such year shall be reduced by an amount equal to the employer contributions to such account for such year. If an individual is a participant in such an account for less than his entire taxable year, the amount of the deduction allowable under this section to him for such year shall be reduced by the sum of any amounts allowed as a deduction to the individual for his contributions to such account, and the amount of the reduction determined under this paragraph.

"(4) CONTRIBUTIONS MADE AFTER AGE 70½ YEARS.—No deduction shall be allowed under this section with respect to any payment described in subsection (a) which is made by an individual who attains the age of 70½ years before the end of the taxable year of such payment.

"(c) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a contribution to which section 72(p)(2)(C) applies.

"(d) MARRIED INDIVIDUALS.—In the case of a married individual (as defined in section 153), the amount determined under subsection (b)(1) shall be determined without regard to the earned income of his spouse. For purposes of this section, the earned income of any payments by, a married individual shall be determined without regard to the community property laws of a State.

"(e) EARNED INCOME DEFINED.—For purposes of this section, the term 'earned income' means any income which is earned income within the meaning of section 401(c)(2) or 911(b)."

(b) INDIVIDUAL RETIREMENT ACCOUNTS.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"SEC. 408. INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) REQUIREMENTS FOR QUALIFICATION.—A trust created or organized in the United States shall constitute a qualified individual retirement account under this section provided that under a written governing instrument—

"(1) it is maintained for the purpose of distributing the contributions thereto and the income therefrom to a specific individual or his beneficiaries;

"(2) except in the case of a contribution to which section 72(p)(2)(C) applies, contributions thereto during any taxable year may not exceed the excess of—

"(A) the limitation provided by section 219(b) (plus any amounts contributed by an employer to an account described in paragraph (8) for such taxable year), over

"(B) the sum of the amounts paid by such individual during such year—

"(i) for a qualified individual retirement bond purchase described in section 409, for his benefit, or

"(ii) under another qualified individual retirement account,

and, except as provided in subsection (b)(3), may be made only by the individual for whose benefit the account is maintained;

"(3) the assets thereof may not be commingled with other property except in a common trust fund or in the case of accounts maintained by an employer for his employees;

"(4) the assets thereof are required to be held by a bank (as defined in section 401(d)(1)) or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which such other person will hold such assets will be consistent with the requirements of this section;

"(5) the entire interest of the individual for whose benefit the account is maintained will be distributed to him not later than his taxable year in which he attains the age 70½ years, or will be distributed, commencing not later than such taxable year, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse;

"(6) if the individual for whose benefit the account is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced in accordance with paragraph (5) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such surviving spouse, the entire interest (or the remaining part of such interest if distribution thereof has commended) will, with-

in 5 years after his death (or the death of his surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse) which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which will be immediately distributed to such beneficiary or beneficiaries;

"(7) if contributions thereto may be used for the purchase of an annuity or similar contract issued by a life insurance company, any refunds of premiums are applied within the current taxable year or next succeeding taxable year toward the payment of future premiums or the purchase of additional benefits; and

"(8) in the case of an account to which an employer contributes the additional requirements of subsection (b)(3) are met.

For purposes of this title, a custodial account, annuity contract, or other similar arrangement shall be treated as a trust constituting a qualified individual retirement account of such arrangement would, except for the fact that it is not a trust, constitute a qualified individual retirement account under this subsection. Paragraph (6) shall not apply if distribution of the interest of such individuals have commenced and such distribution is for a term certain over a period permitted under paragraph (5).

"(b) SPECIAL RULES.—

"(1) EXCESS CONTRIBUTIONS.—If all or a portion of the contributions paid by an individual during any taxable year to a qualified individual retirement account are not deductible under section 219 (other than by reason of section 219(c)), such contributions or portions thereof shall be treated in the same manner as an excess contribution within the meaning of section 401(e)(1), and, for this purpose, section 401(e)(2) and (3) shall apply as if such individual were an owner-employee.

"(2) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to the community property laws of any State.

"(3) EMPLOYER CONTRIBUTIONS.—An employer may maintain and may contribute to qualified individual retirement accounts for his employees if, with respect to each employee's account for such employee's taxable year—

"(A) the employee is not an active participant in another trust or plan of such employer which is qualified under section 401(a), 404(a)(2), or 405(a),

"(B) the aggregate employer and employee contributions with respect to such account do not exceed $1,000,

"(C) the interest of such employee in such account is nonforfeitable, and

"(D) separate records are maintained for employer and employee contributions.

An account described in this paragraph shall satisfy the requirements of subsection (a) with respect to each individual who participates and shall be treated as such individual's separate account, except that the employer may pay reasonable administrative expenses. In determining the deductibility of employer contributions satisfying the requirements of this paragraph, the limitations under section 404 shall not apply; however, any amount contributed by an employer to such an account during the employee's taxable year for whom the account is maintained in excess of the limitation contained in subparagraph (C) shall not be deductible, but shall be withdrawn from the account by the employer before the end of the taxable year of the employer during which it was made, or carried over to the succeeding taxable year of the employer, during which year it shall be deductible to the extent that a contribution during that year of such excess amount is deductible. Contributions made by an employer to such an account shall be taxable to the participant only as provided by this section.

"(4) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a qualified individual retirement account to his former spouse under a divorce decree or under a written instrument incident to such divorce shall be deemed not to be a taxable transfer by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be deemed to be a qualified individual retirement account of such spouse, and not of such individual. The basis of such account to such spouse at such time shall be deemed to be the same as the individual's basis at such time. Thereafter such account for purposes of this subtitle shall be treated as maintained for the benefit of such spouse.

"(c) TREATMENT AS QUALIFIED TRUST BENEFITING OWNER-EMPLOYEE.—Solely for purposes of subchapter F, chapter 44, and subtitle F, a qualified individual retirement account shall be treated as a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in section 401(c)(3)), the individual for whose benefit such account is maintained shall be treated as an owner-employee for whom such contributions or benefits are provided, and the person holding the assets of such qualified individual retirement account shall be treated as the trustee of such trust. If section 72(p)(2)(C) applies to a contribution to a qualified individual retirement account, chapter 44 shall not be applied to such contribution.

"(d) TAXABILITY OF BENEFICIARY OF QUALIFIED INDIVIDUAL RETIREMENT ACCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount actually paid, distributed, or made available to any payee or distributee by a qualified individual retirement account shall be taxable to him in the year in which actually paid or distributed under section 72 (relating to annuities).

"(2) RECONTRIBUTED AMOUNTS.—Amounts paid or distributed by a qualified individual retirement account (except amounts distributed pursuant to provisions of the governing instrument, and meeting the requirements of subsection (a)(5)) shall not be includible in gross income in the year paid or distributed to the extent that such amounts are not subject to the tax imposed by section 72(p)(3) by reason of the application of section 72(p)(2)(C).

"(3) APPLICABILITY OF SECTION 72(m).—Under regulations prescribed by the Secretary or his delegate, an individual who establishes a qualified individual retirement account shall be treated as an employee who is an owner-employee for purposes of applying paragraphs (2) and (4) of section 72(m) (relating to special rules applicable to employee annuities and distributions under employee plans).

"(e) TREATMENT OF NONQUALIFIED OR NONEXEMPT ACCOUNT.—If for the preceding taxable year of a trust it was described in subsection (a) and was exempt from tax under section 501(a) and if for the taxable year such trust is not exempt from tax under section 501(a), the fair market value of the account at the beginning of the taxable year, reduced by any contributions of the individual who established such account which were not deductible under section 219 (other than by reason of section 219(c)), shall be included in the gross income of the individual who established such account or his beneficiary as if the assets of the trust had been distributed to him on the first day of the taxable year.

"(f) SPECIAL RULE.—Solely for the purpose of determining whether section 72(p)(2)(C) applies to a contribution under subsection (a)(2) or to an amount paid or distributed under subsection (d)(2), the requirement of section 72(p)(1) that the amount paid or distributed be received before age 59½ shall not apply.

"(g) CROSS REFERENCES.—

"(1) For excise tax on a qualified individual retirement account, see section 4960.

"(2) For additional tax on certain distributions from a qualified individual retirement account, see section 72(p)."

(c) TREATMENT OF DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS.—Section 72 (relating to annuities) is amended—

(1) by striking out subsection (m)(1),

(2) by inserting after "section 401(c)(1)" in subsection (m)(2) ", or under section 219",

(3) by striking out at the end of subsection (m)(3)(A)(i) "or",

(4) by striking out at the end of subsection (m)(3)(A)(ii) "participant." and inserting in lieu thereof "participant, or",

(5) by inserting after subsection (m)(3)(A)(ii) the following new clause—

"(iii) purchased by a trust described in section 408(a) which is exempt from tax under section 501(a).",

(6) by striking out subsection (m)(3)(B) and inserting in lieu thereof:

"(B) Any contribution to a plan described in subparagraph (A)(i) or a trust described in subparagraph (A)(ii) or (iii), which is allowed as a deduction under section 404 or section 219, and any income of a trust described in subparagraph (A)(ii) or (iii), which is determined in accordance with regulations prescribed by the Secretary or his delegate to have been applied to purchase the life insurance protection under a contract described in subparagraph (A), is includible in the gross income of the participant for the taxable year when so applied.",

(7) by inserting after "501(a)" in subsection (m)(4)(A) ", a trust described in section 408(a) which is exempt from tax under section 501(a),",

(8) by inserting after "501(a)" in subsection (m)(4)(B) ", a trust described in section 408(a) which is exempt from tax under section 501(a),", and

(9) by redesignating subsection (p) as (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF CERTAIN PREMATURE DISTRIBUTIONS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to amount paid or distributed by a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a), which are includible in the gross income of the distributee or payee and which are received by him before the individual for whose benefit such account is maintained attains the age of 59½ years.

"(2) LIMITATIONS.—This subsection shall not apply to an amount described in paragraph (1)—

"(A) paid or distributed to such individual on account of his becoming disabled within the meaning of subsection (m)(7),

"(B) includible in gross income under section 72(m)(3)(B), or

"(C) paid or distributed by a qualified individual retirement account to the individual for whose benefit such account is maintained if, within 60 days after receipt, such amount is contributed in full to another qualified individual retirement account for such individual's benefit.

Subparagraph (C) shall not apply to an amount described in paragraph (1) which is paid or distributed to an individual with respect to whom such subparagraph applied at any time during the preceding, 36-month period, nor shall it apply unless the same property (other than money) received in such payment or distribution is contributed

to such other qualified individual retirement account for such individual's benefit.

"(3) AMOUNT OF PENALTY.—If an individual is required to include in gross income for the taxable year an amount to which this subsection applies, there shall be imposed, in addition to any other tax imposed by this chapter, a tax for such taxable year equal to 30 percent of such amount. The tax imposed under this paragraph shall not be reduced by any credit under part IV of subchapter A and shall not be treated as a tax imposed by this chapter for purposes of section 56.".

(d) EXCISE TAX ON EXCESSIVE ACCUMULATIONS.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 43.—RETIREMENT PLANS

"Sec. 4960. Excise tax on individual retirement accounts.

"SEC. 4960. EXCISE TAX ON INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the assets of a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) a tax equal to 10 percent of an amount which bears the same ratio to the fair market value of the total assets in such account at the beginning of the taxable year as—

"(1) the minimum amount required to be distributed during such year under section 408(a) (5) or (6) (whichever applies), reduced (but not below zero) by the total amount actually distributed during such year by the account to the individual for whose benefit such account is maintained or his beneficiary, bears to—

"(2) the minimum amount required to be distributed during such year under section 408(a) (5) or (6) (whichever applies).

"(b) WHEN APPLICABLE.—The tax imposed by this section shall apply only for taxable years beginning after the taxable year in which the individual who established such account attains the age of 70½ years.

"(c) RULES.—For purposes of this section, the minimum amount required to be distributed during a year under section 408(a) (5) or (6) shall be determined under regulations prescribed by the Secretary or his delegate. In the case of an account described in section 408(a)(8) the tax shall be computed only with respect to each individual in such account. A bond described in section 409, with respect to which a deduction was claimed under section 219, shall be treated, for purposes of this section, as a qualified individual retirement account."

(e) LIMITATION ON APPLICATION OF SECTIONS 402(a) AND 403(a) IN THE CASE OF CERTAIN CONTRIBUTIONS.—Subpart A of Part I of subchapter D of chapter 1 (relating to general rules) is amended as follows:

(1) AMENDMENT OF SECTION 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended—

(A) by striking out in the first sentence of paragraph (1) "and (4)" and inserting in lieu thereof ", (4), and (6)", and

(B) by inserting after paragraph (5) the following new paragraph—

"(6) INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of an employee's trust described in section 401(a), which is exempt from tax under section 501(a), if the total distributions payable with respect to any employee are paid to him within 1 taxable year of the employee (during which he is not at any time 59½ years of age or older) on account of his separation from the service other than by reason of his death, the amount of such distribution, to the extent such distribution would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amount was paid to him, such otherwise includible amount is contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in the total distribution is contributed.

(2) AMENDMENT OF SECTION 403.—Section 403(a) is amended—

(A) by striking out in the first sentence of paragraph (1) "paragraph (2)" and inserting in lieu thereof "paragraphs (2), and (4)", and

(B) by inserting after paragraph (3) the following new paragraph—

"(4) INDIVIDUAL RETIREMENT ACCOUNTS.—If—

"(A) an annuity contract is purchased by an employer for an employee under a plan described in paragraph (1);

"(B) such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to reduce subsequent premiums on the contracts under the plan; and

"(C) the total amounts payable by reason of an employee's separation from the service other than by reason of death are paid to the employee within one taxable year of the employee (during which he is not at any time 59½ years of age or older),

then the amount of such payment, to the extent such amounts would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amounts are paid to him, such otherwise includible amounts are contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in such payments is contributed. The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this paragraph."

(f) INDIVIDUAL RETIREMENT BOND PURCHASE.—Subpart A of Part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"SEC. 409. INDIVIDUAL RETIREMENT BOND PURCHASES.

"(a) REQUIREMENT FOR QUALIFICATION.—An individual's purchase of United States bonds described in subsection (b) shall constiute a qualified individual retirement bond purchase under this section if contributions (not in excess of an amount determined under section 219) are used solely to purchase for the individual or his beneficiaries United States bonds described in subsection (b).

"(b) BONDS TO WHICH APPLICABLE.—

"(1) CHARACTERISTICS OF BONDS.—This section shall apply to a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary under such Act—

"(A) provides for payment of interest, or investment yield, only upon redemption;

"(B) provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after its issuance;

"(C) provides that it ceases to bear interest, or provide investment yield, on the earlier of—

"(i) the date on which the individual in whose name it is purchased attains the age of 70½ years; or

"(ii) five years after the date on which such individual dies, but not later than the date on which he would have attained age 70½ had he lived;

"(D) may be purchased only in the name of an individual described in subsection (a);

"(E) may be redeemed before the death of the individual in whose name it is purchased only if such individual—

"(i) has attained the age of 59½ years,

"(ii) has become disabled (within the meaning of section 72(m)(7)), or

"(iii) redeems the bond within 12 months after its issuance; and

"(F) is not transferable.

"(d) TAXABILITY OF HOLDER OF QUALIFIED INDIVIDUAL RETIREMENT BONDS.—

"(1) GROSS INCOME NOT TO INCLUDE BONDS AT TIME OF DISTRIBUTION.—For purposes of this chapter, in the case of an individual purchasing a bond described in subsection (b), gross income does not include any amount attributable to the receipt of such bond. Upon redemption of such bond, the proceeds shall be subject to taxation under this chapter, but the provisions of section 72 (relating to annuities, etc.), section 402 (relating to taxability of beneficiary of employee's trust), and section 1232 (relating to bonds and other evidences of indebtedness) shall not apply.

"(2) BASIS.—The basis of any bond received by an individual under a qualified individual retirement bond purchase shall be zero.

"(3) BONDS DEEMED REDEEMED.—For purposes of paragraph (1), the proceeds of a bond described in subsection (b) shall be includible in gross income no later than the taxable year in which the individual attains the age of 70½ years.".

(g) CONFORMING AMENDMENTS.—

(1) RETIREMENT INCOME.—Section 37(c)(1) (defining retirement income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) pensions and annuities including—

"(i) in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), a distribution by a trust described in section 401(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72(p)(3), and

"(ii) a distribution form a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72(p)(3),".

(B) by striking out subparagraph (E) and inserting in lieu thereof the following new subparagraphs:

"(E) bonds described in section 405(b) which are received—

"(i) under a qualified bond purchase plan described in section 405(a),

"(ii) in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(iii) from a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a), or

"(F) bonds described in section 409(a), or".

(2) ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) (as amended by section 702(d)(2) of this Act) is amended by inserting after paragraph (8) the following new paragraph:

"(9) INDIVIDUAL RETIREMENT SAVINGS.—The deduction allowed by section 219."

(3) BASIS FOR ASSETS HELD FOR QUALIFIED PENSION PLAN CONTRACTS.—Section 801(g)(7) (relating to basis of assets held for qualified pension plan contracts) is amended by striking out "or (D)" and inserting in lieu thereof "(D), or (E)".

(4) PENSION PLAN RESERVES.—Section 805(d)(1) (relating to definition of pension plan reserves) is amended by striking out "or" at the end of subparagraph (C), by striking out "foregoing." at the end of subparagraph (D) and inserting in lieu thereof "foregoing; or",

and by adding at the end thereof the following new subparagraph:

"(E) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be qualified individual retirement accounts described in section 408(a) which are exempt from tax under section 501(a)."

(5) AVERAGEABLE INCOME.—Paragraph (2)(A) of section 1302(a) (relating to definition of averageable income) is amended by inserting "or 72(p)(3)" after "section 72(m)(5)".

(6) EARNED INCOME.—Section 1348(b)(1) (relating to definition of earned income) is amended by inserting ", 72(p)(3)" after "72(n)".

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219 and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.
"Sec. 220. Cross references."

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 408. Individual retirement accounts."

(3) The table of sections for subpart A (designated as such by section 201(c) of this Act) of part I of suchapter D is amended by adding at the end thereof the following item:

"Sec. 409. Qualified individual bond purchases.".

(4) The table of chapters of subtitle D is amended by adding at the end thereof the following new item:

"Chapter 43. Retirement plans.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

SEC. 702. CERTAIN PLANS.

(a) CERTAIN DEFINED BENEFIT PLANS.—Section 401 (relating to qualified pension, etc. plans) is amended—

(1) by inserting at the end of subsection (a) the following new paragraphs:

"(12) In the case of a trust which is a part of a defined benefit plan, the plan of which such trust is a part satisfies the requirements of subsections (j) and (k).

"(13) A trust forming part of a plan which provides contributions or benefits for employees, some or all of whom are proprietary employees, shall constitute a qualified trust under this section only if the requirements of section 412 are satisfied.",

(2) by striking out the first sentence of subsection (d)(1) and inserting in lieu thereof the following:

"In the case of a trust which is created on or after the date of the enactment of this subsection, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the assets thereof are held by a bank or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will hold such assets will be consistent with the requirements of this section. Notwithstanding the requirements of the preceding sentence, a person (including the employer) other than the trustee or custodian so holding plan assets may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges).", and

(3) by redesignating subsection (j) as (l) and inserting after subsection (i) the following new subsections:

"(j) CERTAIN DEFINED BENEFIT PLANS.—

"(1) GENERAL RULES.—A trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c)(1) or proprietary employees within the meaning of section 412(b)(1), shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that the basic benefit accruing for each separate plan year of participation by such an employee shall not exceed the product of the compensation of such employee under the plan for such year (not in excess of $50,000) and the percentage shown on the following table corresponding to his age at the time his current period of participation began:

"Age attained at participation—	
30 or less	6.5
35	5.4
40	4.4
45	3.6
50	3.0
55	2.5
60 or over	2.0

For purposes of this subsection, the term 'basic benefit' means a benefit in the form of a straight life annuity commencing at the later of age 65, or 5 years from the time the participant's current period of participation began, under a plan which provides no ancillary benefits and to which employees do not contribute. The Secretary or his delegate shall prescribe regulations under which the percentages shown on such table shall be adjusted for plans which do not meet the conditions described in the preceding sentence and under which percentages for ages between those shown on the table shall be determined. After December 31, 1977, the Secretary or his delegate may, by regulations, prescribe revised percentages to be used in lieu of the percentages shown in the table provided by this subsection. Such percentages shall be revised by the Secretary or his delegate on the basis of changes in prevailing interest and mortality rates occurring after 1973.

"(2) ALTERNATIVE LIMITATION FOR PROPRIETARY EMPLOYEES.—Notwithstanding the provisions of paragraph (1), a qualified plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) may provide for a basic benefit on behalf of an individual who is a proprietary employee (within the meaning of section 412(b)(1)) which does not exceed 75 percent of the participant's average high 3-year compensation from the employer. This amount shall be amortized in equal payments over the remaining future service of each such proprietary employee or over 10 years whichever is the longer. Average high 3-year compensation from the employer is the amount includible in the gross income of the participant (determined without regard to section 911) for the period of 3 actual consecutive taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the greatest but not in excess of the first $100,000 per year. Where contributions are made under a plan for a proprietary employee who was a participant for a period of less than 10 years, the basic benefit which may be provided under the plan (under this paragraph) shall be reduced ratably.

"(3) AGGREGATION OF PLANS.—For purposes of this subsection—

"(A) DEFINED BENEFIT PLANS.—If a defined benefit plan provides benefits for an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined benefit plan and all defined benefit plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) DEFINED CONTRIBUTION PLANS.—If a defined contribution plan provides for contributions from an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined contribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered as a single plan.

"(C) RULES.—For purposes of this paragraph, the term 'owner-employee' also includes an individual who is a proprietary employee (as defined in section 412(b)(1)), and the terms 'control' and 'controls' have the same meaning as they have in subsection (d)(9). An owner-employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(4) REDUCTION OF BENEFITS.—In the case of an owner-employee or proprietary employee who is covered by a defined benefit plan to which this subsection applies, as well as a defined contribution plan, if for a taxable year a deduction is allowable under section 404(a)(9) for a contribution with respect to such owner-employee, then for the plan year of a defined benefit plan ending with or within such taxable year, in applying this subsection the percentage determined under paragraph (1) shall be the percentage determined under such paragraph (without regard to this paragraph) multiplied by the excess of 1 over a fraction—

"(A) the numerator of which is the amount so allowable under section 404(a)(9), and

"(B) the denominator of which is the limitation determined under section 404(a)(9) with respect to such individual.

"(5) SPECIAL RULES.—Section 404(e) (relating to special limitations for self-employed individuals) shall not apply to a trust to which this subsection applies.

"(k) LIMITATION ON BENEFITS UNDER DEFINED BENEFIT PLAN.—A trust which is a part of a defined benefit plan shall not constitute a qualified trust under this section if, under the plan of which such trust is a part, the benefit under the plan, together with the benefits under all other defined benefit plans (whether or not terminated) of the employer, exceeds 100 percent of the participant's average compensation from the employer which is includible in the gross income of the participant (determined without regard to section 911) for the period of 3 consecutive taxable years of the participant for which his compensation from the employer is the greatest. For purposes of this subsection, if the benefits provided under a pension plan are not in the form of a straight life annuity commencing at age 65 adjusted for fluctuations in the cost of living under a plan to which employees do not contribute, which provides no ancillary benefits, the 100 percent limit provided by the preceding sentence shall be adjusted, in accordance with regulations prescribed by the Secretary or his delegate to reflect such other form. In the case of a participant in a defined benefit plan who is also a participant in a money purchase pension plan with respect to the same employment, the limitation determined under this subsection shall be the 100 percent limitation (as adjusted pursuant to the preceding sentence), multiplied by the excess of one over a fraction—

"(1) the numerator of which is the percentage of compensation contributed under the money purchase pension plan (but not greater than 20), and

"(2) the denominator of which is 20.

The percentage limitation applicable to an employee who has been an active participant in the plan for fewer than 10 full plan years shall be the percentage limitation otherwise determined under this subsection, multiplied by a fraction, the numerator of which is the number of such full years and the denominator of which is 10."

(4) by striking out, at the end of subsection (d)(9)(B)(i) "or", by striking out at the end of subsection (d)(9)(B)(ii) "partnership." and inserting in lieu thereof "partnership, or", and by inserting after subsection (d)(9)(B)(ii) the following new clause:

"(iii) in the case of a corporation, own, or are considered as owning, within the meaning of section 1563(e), stock possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of stock of the corporation."

(b) PLANS OF PROPRIETARY EMPLOYEES.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 and amended by section 221, is amended by inserting at the end thereof the following new section:

"SEC. 412. PLAN OF PROPRIETARY EMPLOYEE

"(a) GENERAL RULE.—In the case of a plan which provides contributions or benefits for employees some or all of whom are proprietary employees (as defined by subsection (c))—

"(1) the provisions of section 404(e) shall apply, and

"(2) paragraph (5) of section 401(d) (without regard to subparagraph (c)) and section 401(e) (without regard to paragraph (2)(E)) shall apply if such plan is not a defined benefit plan but excess contributions shall be repaid to the proprietary employee on whose behalf they were made.

For purposes of paragraph (1), the compensation of a prorietary employee taken into account shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year. The provisions referred to in paragraphs (1) and (2) shall be applied as if each proprietary employee were an employee within the meaning of section 401(c)(1).

"(b) DEFINITIONS.—For purposes of this section and section 401—

"(1) PROPRIETARY EMPLOYEE.—The term 'proprietary employee' means an individual who owns, or is considered as owning, within the meaning of section 1563(e), stock possessing 2 percent or more of the total combined voting power of all classes of stock entitled to vote or 2 percent or more of the total value of shares of stock of the corporation if the total of the present value of the accrued benefits, of all such employees who are active participants in the plan, derived from employed contributions (within the meaning of section 411(b)(2)) exceeds 25 percent of the present value of such accrued benefits for all active participants in the plan. For purposes of this paragraph, in the case of a profitsharing or stock bonus plan, the rules of section 1563(e) shall be applied without respect to paragraph (3)(C) thereof. To the extent provided in regulations prescribed by the Secretary or his delegate, such term also means an individual who has been a proprietary employee within the meaning of the preceding sentence. The Secretary or his delegate is authorized to prescribe by regulations the actuarial assumptions to be applied in computing accrued benefits for purposes of this paragraph and the time at which the present value of such benefits is determined.

"(2) AGGREGATION OF PLANS.—For purposes of this subsection—

"(A) DEFINED BENEFIT PLANS.—If a defined benefit plan provides benefits for a proprietary employee of a trade or business who controls, or for two or more proprietary employees who together control, one or more other trades or businesses, that defined benefit plan and all defined benefit plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) DEFINED CONTRIBUTION PLANS.—If a defined contribution plan provides for contributions from a proprietary employee of a trade or business who controls, or for two or more proprietary employees of a trade or business who together control, one or more other trades or businesses, that defined contribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered as a single plan.

"(C) RULES.—If any such proprietary employee is an owner-employee (within the meaning of section 401(c)(3)) of a trade or business and is a participant in a defined benefit or a defined contribution plan established with respect to that trade or business, such plan shall be taken into account under subparagraph (A) or (B), whichever is applicable, for purposes of this paragraph. A proprietary employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(D) CONTROL.—For purposes of subparagraph (A), a proprietary employee, or two or more proprietary employees, shall be considered to control a trade or business if such proprietary employee, or such two or more proprietary employees together—

"(i) own the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, own more than 50 percent of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation own (or are considered among as owning, within the meaning of section 1563(e)) more than 50 percent of the total combined voting power of stock entitled to vote more than 50 percent of the total value of shares of stock of the corporation.

For purposes of subparagraph (B), a proprietary employee, or two or more proprietary employees, shall be treated as owning any interest in a partnership which is owned, directly or indirectly, by a partnership which such proprietary employee, or such two or more proprietary employees, are considered to control within the meaning of the preceding sentence.".

(c) REPEAL OF SECTION 1379.—Subchapter S of chapter 1 is amended by striking out section 1379.

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter S of chapter 1 is amended by striking out the last item in the table.

(2) Section 62 (relating to adjusted gross income) is amended by striking out paragraph (9).

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 221 and amended by section 231, is amended by adding at the end thereof the following new item:

"Sec. 412. Plan of a proprietary employee.".

(f) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1973.

(2) In the case of a plan in existence on July 24, 1973, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or,

(B) if later, the earlier of plan years beginning after—

(i) the termination of the agreement pursuant to which the plan is maintained, which the Secretary of the Treasury or his delegate finds to be a collective-bargaining agreement, between employee representatives and one or more employers, in effect on July 24, 1973, or

(ii) December 31, 1980.

For purposes of clause (i), the date on which an agreement terminates shall be determined without regard to any extension thereof agreed to after July 24, 1973.

(3) In the case of a plan in existence on July 24, 1973, the second sentence of section 401(j)(4) (as added by this section) shall apply only with respect to plan years beginning after December 31, 1979.

SEC. 703. TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS.

(a) AMENDMENT OF SECTION 72(n).—Section 72(n) (relating to total distributions) is amended by—

(1) striking out the portion of paragraph (2) preceding "applies" the first time it appears and inserting in lieu thereof the following:

"(2) CERTAIN EMPLOYEES.—In any case to which this paragraph",

(2) inserting after paragraph (B) of such paragraph the following: "This paragraph applies to amounts to which this subsection applies which are distributed or paid with respect to an individual who is an employee (within the meaning of section 401(c)(1)) if the number of plan years such individual was such an employee under the plan under which such amounts are distributed or paid exceeds 50 percent of the number of plan years for which he was a participant in such plan.",

(3) striking out "this subsection" in paragraph (3) and inserting in lieu thereof "paragraph (2)", and

(4) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) DETERMINATION OF TAX ON CERTAIN TOTAL DISTRIBUTIONS.—Notwithstanding any other provisions of this chapter, except as provided in paragraph (5), the tax on amounts to which this subsection (other than paragraph (2)) applies is 15 times the product of—

"(A) the tax (determined by applying the rates contained in the table in section 1(c)) that would result if the taxable income of the recipient were one-fifteenth of the excess of

"(i) the sum of the amount to which this paragraph applies and the portion of the distribution or payment which receives capital gains treatment under section 402(a)(2) or 403(a)(2)(A), over

"(ii) the minimum distribution allowance, multiplied by

"(B) a fraction, the numerator of which is the number of calendar years after 1973 the recipient was an active participant in the plan and the denominator of which is the total number of calendar years the recipient was an active participant in the plan.

For purposes of this paragraph, the minimum distribution allowance is one-half of the first $20,000 of the sum referred to in clause (i), reduced (but not below zero) by 20 percent of the excess of such sum over $20,000.

"(5) MULTIPLE DISTRIBUTIONS.—If an individual receives more than one distribution to which paragraph (4) applies during a period of 6 consecutive taxable years of that individual, the tax payable on the second or subsequent such distribution shall be determined, under regulations prescribed by the Secretary or his delegate, by applying the provisions of paragraph (4) to the aggregate amount of all such distributions within such period and reducing the amount of the tax so determined by the amount of tax paid with respect to prior distributions within the period. For purposes of this paragraph, such distribution shall be aggregated without regard to the source of such distributions.

"(6) COMMUNITY PROPERTY LAWS.—The provisions of paragraphs (4) and (5) shall be applied without regard to the community property laws of any State.

"(7) ANNUITIES.—For purposes of paragraphs (4) and (5), the distribution of an annuity shall be treated as a distribution as an amount equal to the cash surrender value of such annuity on the date of distribution.".

(b) AMENDMENT OF SECTION 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) PHASE OUT OF CAPITAL GAINS TREATMENT.—The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1973, only to the extent that it does not exceed such distribution (reduced in accordance with such sentence) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(c) AMENDMENT OF SECTION 403.—Section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraph (2)(C) and inserting in lieu thereof the following:

"(C) PHASE OUT OF CAPITAL GAINS TREATMENT.—Subparagraph (A) shall apply to a payment paid after December 31, 1973, only to the extent that it does not exceed such payment (reduced in accordance with such subparagraph) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(d) CONFORMING AMENDMENTS.—

(1) PROHIBITION OF DOUBLE INCOME AVERAGING.—Subsection 1304(b) (relating to special rules) is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively, and inserting after paragraph (2) the following new paragraph:

"(3) section 72(n)(4) (relating to determination of tax on certain total distributions) and section 72(n)(5) (relating to multiple distributions),".

(2) LIMITATION ON THE APPLICATION OF SUBSECTION 1304(b).—Section 1304 (relating to special rules on income averaging) is amended by adding at the end thereof the following new subsection:

"(g) LIMITATION ON THE APPLICATION OF SUBSECTION.—(b) Recipients of distributions to which section 72(n)(2) or 72(n)(4) apply may choose the benefit of this part except with respect to such distributions.".

(e) EFFECTIVE DATES.—The amendments made by this section shall take effect on January 1, 1974.

SEC. 704. CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS AND PROPRIETARY EMPLOYEES.

(a) REVISION OF LIMITATIONS.—

(1) LIMIT ON DEDUCTIONS.—Section 404(e) (relating to deduction limitations) is amended by—

(A) striking out "$2,500, or 10 percent" in paragraphs (1) and (2)(A) and inserting in lieu thereof "$7,500, and 15 percent",

(B) striking out "whichever is the lesser." in paragraphs (1) and (2)(A) and inserting in lieu thereof "whichever is the lesser, the alternative limitation for proprietary employees described in paragraph (4), or the minimum deductible amount described in paragraph (5).", and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) ALTERNATIVE LIMITATION FOR PROPRIETARY EMPLOYEES.—

"(A) Notwithstanding the limitations of paragraph (1) (but subject to the provisions of section 414), in the case of a plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) which provides contributions for employees, some or all of whom are proprietary employees (within the meaning of section 412(b)(1)), the amounts deductible under subsection (a) in any taxable year with respect to contributions on behalf of any proprietary employee may equal the present value (based on a 6 percent interest rate) of the 'unfunded limitation balance'.

"(B) The term 'unfunded limitation balance' means in the case of a plan which provides no ancillary benefits any excess of—

"(i) 75 percent of the 'contribution base' divided by the appropriate conversion factor (within the meaning of section 411(b)(2)), over

"(ii) what the balance of the employee's account under the plan, as of the close of the preceding plan year, would be if it earned interest at the rate of 6 percent per annum, compounded annually until 'normal retirement age'.

The Secretary or his delegate shall prescribe regulations defining the term 'unfunded limitation balance' for plans providing for ancillary benefits.

"(C) The term 'contribution base' means the average high 3 year compensation includible in the gross income of the participant (determined without regard to section 911) for any 3 consecutive (current or past) taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the greatest, but not in excess of the first $100,000 of compensation for any year.

"(D) For purposes of this paragraph, the term 'normal retirement age' means the older of age 65 or if older the age of the employee on the last day of the tenth year for which he will be a participant under the plan.

"(E) In making the computation provided under this paragraph the provisions of paragraph (2) shall be applicable.

"(F) Notwithstanding the limits of subsections (a) (3) and (7) (whichever is applicable), if the amount determined under subparagraph (A) for any taxable year is less than the amount allowable as a deduction under such subsections then, the excess of the amount allowable under such subsections over the amount determined in subparagraph (A) shall be carried forward and allowable as a deductible contribution when paid in succeeding taxable years to the extent that the total contributions do not exceed the amount determined under subparagraph (A) in such taxable year.

"(G) The Secretary or his delegate may prescribe separate conversion factors under subparagraph (B)(i) for whose normal retirement age is other than age 65 and may adjust this factor to reflect changes 'n mortality or interest rates.

"(5) MINIMUM DEDUCTIBLE AMOUNT.—For purposes of this subsection, the minimum deductible amount for any employee is the lesser of—

"(A) $750, or

"(B) 100 percent of his earned income derived by him from the trade of business with respect to which the plan is established.".

(2) LIMIT ON CONTRIBUTIONS.—Section 401(e)(3) (relating to contributions for premiums on annuity, etc., contracts) is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(3) LIMIT ON AMOUNT RECEIVED.—Section 72(m)(5)(B)(i) (relating to penalties applicable to certain amounts received by owner-employees) is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(b) DISCRIMINATION.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end thereof the following new paragraph:

"(12) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees (as defined in subsection (c)(1)), the compensation of such an employee taken into account for purposes of paragraph (4) shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account for such purposes shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for taxable years beginning after 1973.

SEC. 705. COLLECTIVELY BARGAINED PLANS.

(a) GENERAL RULE.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) as added by section 201 and amended by sections 221 and 702 is amended by inserting at the end thereof the following new section:

"SEC. 413. COLLECTIVELY BARGAINED PLANS.

"(a) APPLICATION OF SECTION.—This section applies to—

"(1) a plan created and maintained pursuant to an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employers, and

"(2) each trust which is a part of such plan.

"(b) GENERAL RULE.—If this section applies to a plan, notwithstanding any other provision of this title—

"(1) Section 410 shall be applied as if all employees of each of the employers who are parties to the collective bargaining agreement and who contribute to or under the plan on the same basis were employed by a single employer.

"(2) Section 401(a)(4) and 411(c)(4) shall be applied as if all participants who are employed by employers who contribute to or under the plan on the same basis were employed by a single employer.

"(3) For purposes of section 401(a), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

"(4) Section 411 shall be applied as if all employers who have been parties to the collective bargaining agreement constituted a single employer.

"(5) The minimum funding standard provided by section 4971 shall be determined as if all participants in the plan were employed by a single employer. For purposes of section 4971 (other than for purposes of determining the portion of a liability required to be amortized for a plan year), a plan year shall be considered to begin on the date the collective bargaining agreement is first effective (treating an agreement to extend a prior agreement as a new agreement, and to end on the expiration date of the agreement determined under such agreement).

"(6) For a plan year (determined without regard to paragraph (5)) the liability under section 4972 of each employer who is a party to the collective bargaining agreement shall be determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of his contributions under the plan and his liability for contributions under the plan. The liability for tax under such section in the case of such a plan shall apply first to the extent of any delinquency in meeting required contributions on the part of an employer under such plan.

"(7) For a calendar year the liability under section 4975 of each employer who is a party to the collective bargaining agreement during the calendar year shall be determined by reference to the number of plan participants employed by the employer at any one time during the calendar year.

"(8) Each applicable limitation provided by section 404(a) shall be determined for a plan year (within the meaning of paragraph (5)) as if all participants in the plan were employed by a single employer. The amounts contributed to or under the plan by each

employer who is a party to the contract, for the portion of his taxable year which is included within such a plan year, shall be considered not to exceed such a limitation if the anticipated employer contributions for such plan year (determined in a manner consistent with the manner in which actual employer contributions for such plan year are determined) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary or his delegate."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for taxable years and plan years beginning on or after January 1, 1976.

SEC. 706. MISCELLANEOUS PROVISIONS.

(a) EMPLOYEE CONTRIBUTIONS OF OWNER-EMPLOYEES.—Section 401(d)(4)(B) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by inserting "in excess of contributions made by an owner-employee as an employee" after "benefits".

(b) CERTAIN CUSTODIAL ACCOUNTS.—Section 401 (relating to pension, profit-sharing, and stock bonus plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

(f) CERTAIN CUSTODIAL ACCOUNTS OR OTHER ARRANGEMENTS.—For purposes of this title, a custodial account or an arrangement similar to a custodial account or similar to an annuity contract shall be treated as a qualified trust under this section if—

"(1) the custodial account or arrangement would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or arrangement treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or arrangement shall be treated as the trustee thereof.".

(c) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—Section 403(b) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(7) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfies the requirements of section 401(f) shall be treated as amounts contributed by him for an annuity contract for his employee if the amounts are paid to provide a retirement annuity for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

"(B) ACCOUNT TREATED AS PLAN.—For purposes of this title, a custodial account which satisfies the requirements of section 401(f) shall be treated as an organization described in section 401(a) with respect to amounts received by it (and income from investment thereof) which are excluded under this subsection from the gross income of the employees on whose behalf such amounts are paid.

"(C) REGULATED INVESTMENT COMPANY.—For purposes of this paragraph, the term 'regulated investment company' means a domestic corporation which is a regulated investment company within the meaning of section 851(a), and which issues only redeemable stock.".

(d) AMENDMENTS TO SECTION 404.—

(1) Section 404(a) (relating to deduction for contribtuions of an employer to an employee's trust, etc.) is amended by—

(A) striking out paragraph (1)(A);

(B) striking out paragraph (1)(B) and (C) and inserting in lieu thereof the following:

"(B) the amount necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the Secretary or his delegate, but if such remaining unfunded cost with respect to any three individuals is more than 50 percent of such remaining unfunded cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least 5 taxable years, or

"(C) in lieu of the amount allowable under subparagraph (B), an amount equal to the normal cost of the plan, as determined under regulations prescribed by the Secretary or his delegate, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 percent of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan as determined under regulations prescribed by the Secretary or his delegate, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased"; and

(c) adding immediately after paragraph (1)(D) the following new sentence: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the minimum funding standard described in section 4971.".

(2) Section 404(a) (relating to deduction for contributions of an employer to an employee's trust, etc.) is amended by striking out paragraph (6) and inserting in lieu thereof:

"(6) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraphs (1), (2), and (3), a taxpayer shall be deemed to have made a payment on the last day of the preceding taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(e) INCLUSION OF CERTAIN EMPLOYEE CONTRIBUTIONS IN GROSS INCOME.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) as added by section 201 and as amended by sections 701(b) and (e) of this Act is further amended by adding at the end thereof the following new section:

"SEC. 414. INCLUSION OF CERTAIN EMPLOYER CONTRIBUTIONS IN GROSS INCOME.

"(a) INCLUSION OF CONTRIBUTIONS IN GROSS INCOME.—Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual shall include in gross income, for his taxable year in which or with which the taxable year of his employer ends, the amount equal to the excess of—

"(1) the amount of the contributions made on his behalf by the employer during the taxable year of the employer (including amounts deemed to be paid during such year under section 404(a)(6)) to or under a money purchase pension plan which satisfies the requirements of section 401(a), 404(a)(2), or 405(a) during such taxable year of the employer, over

"(2) 20 percent of such individual's compensation otherwise paid or accrued by him from such employer during the employer's taxable year.

In any taxable year of an individual in which he is covered under two or more money purchase pension plans maintained by an employer, the amount includable in gross income shall be the amount by which the total of such contributions exceeds 20 percent of the compensation received or accrued by such individual during the taxable year of his employer.

"(b) TREATMENT OF AMOUNTS INCLUDED IN GROSS INCOME.—Any amount included in the gross income of an individual under subsection (a) shall be treated as consideration for the contract contributed by the individual for purposes of section 72 (relating to annuities).

"(c) DEDUCTION FOR AMOUNTS NOT RECEIVED AS BENEFITS.—If—

"(1) Amounts are included in the gross income of an individual under subsection (a), and

"(2) the rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under subsection (a),

then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under subsection (a) over such payments.

"(d) LIMITATIONS.—(1) Subsection (a) shall not apply for a taxable year of an employee if, at all times during the employer's taxable year referred to in subsection (a), under the money purchase pension plans maintained by the employer (considering all such plans as a single plan) the rate at which employer contributions are to be made with respect to employee compensation does not exceed 20 percent.

"(2) Subsection (a) shall not apply to contributions made to or under a money purchase pension plan on behalf of an individual who is an employee within the meaning of section 401(c)(1).

"(e) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such forms and regulations as may be necessary to carry out the purposes of this section, including forms on which employers may be required to furnish needful information to employees. Such forms shall be furnished to employees at such time as the Secretary or his delegate may by regulations prescribe."

(f) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e)(4) or section 401(j)(2), whichever is applicable.".

(g) PENALTY FOR FAILURE TO FURNISH INFORMATION.—Subchapter B of chapter 68 (relating to assessable penalties) as amended by section 221 of this Act is further amended

by inserting at the end thereof the following new section:

"SEC. 6691. REPORTS BY EMPLOYERS.

"(a) CIVIL PENALTY.—If any person who is required, by regulations prescribed under section 409(e), or by regulations prescribed under section 151 of the Retirement Income Security for Employees Act, to furnish information to the Secretary or his delegate or to an employee fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of $10 for each such failure, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

(h) NET OPERATING LOSS.—Section 172(d)(4) (relating to net operating loss modifications) is amended by—

(1) striking out "and" at the end of subparagraph (C),

(2) striking out "such individual." in subparagraph (D) and inserting in lieu thereof "such individual; and", and

(3) by adding immediately after subparagraph (D) the following new subparagraph (E):

"(E) any deductions allowed under section 219 shall not be treated as attributable to the trade or business of an individual."

(i) RETROACTIVE CHANGES IN PLAN.—Section 401 (relating to qualified pension, etc., plans) is amended by striking out subsection (b) and inserting in lieu thereof:

"(b) CERTAIN RETROACTIVE CHANGES IN PLAN.—A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the date on which there was put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was put into effect (including extensions thereof) or such later time as the Secretary or his delegate may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes for the whole of such period.".

(j) WHEN CONTRIBUTIONS ARE INCLUDIBLE IN INCOME.—

(1) BENEFICIARY OF EMPLOYEE'S TRUST.—Section 402(a)(1) (relating to taxability of beneficiary of exempt trust) is amended by striking out "(1) GENERAL RULE.—" and inserting in lieu thereof the following:

"(1) GENERAL RULES.—A contribution by an employer to an employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall not be includible in the gross income of the employee in the year in which so contributed or accrued. For purposes of the preceding sentence, a contribution shall not be treated as having been made by an employer if it is designated as an employee contribution or if the contribution is made as a consequence of the employee's individual choice in return for a reduction in his compensation for foregoing an increase in compensation.".

(2) EMPLOYEE ANNUITIES.—Section 403(a)(1) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) GENERAL RULES.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section)—

"(A) the payment of the purchase price by the employer shall not be includible in the gross income of the employee in the year in which paid or accrued; and

"(B) except as provided in paragraph (2), the employee shall include in his gross income the amounts received under such contract for the year received as provided in section 72 (relating to annuities).

For purposes of subparagraph (A), an amount paid for the purchase of an annuity contract shall not be treated as being paid by an employer if such amount is designated as an amount paid by the employee or if the amount is paid as a consequence of the employee's individual choice in return for a reduction in his compensation or for foregoing an increase in compensation.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning after December 31, 1973.

(k) TECHNICAL AMENDMENTS.—

(1) INFORMATION WITH RESPECT TO PENSION, PROFIT SHARING AND STOCK BONUS PLANS.—Subpart A of part III of subchapter A of chapter 61 (relating to information returns) is amended by redesignating section 6040 as section 6040A and inserting after section 6039 the following section:

"SEC. 6040. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION

"(a) IN GENERAL.—Every employer who establishes or maintains a plan of deferred compensation described in part I of subchapter D of chapter 1, or the administrator of the plan, shall file an annual return stating such information as the Secretary or his delegate may by forms or regulations prescribe with respect to the qualifications, financial condition and operations of the pension, annuity, profit-sharing, stock bonus, or bond purchase plan established or maintained by such employer; except that, in the discretion of the Secretary or his delegate, the employer may be relieved from stating in its return any information which is reported in returns filed by an organization forming a part of such plan.

"(b) EMPLOYER.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement account described in section 408. The term 'administrator' means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act.

"(c) CROSS REFERENCE.—For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).".

(2) PUBLICITY OF RETURNS.—

(A) Section 6103 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) INFORMATION WITH RESPECT TO PENSION, PROFIT-SHARING AND STOCK BONUS PLANS.—Any return filed under section 6033 or 6040 with respect to a plan of deferred compensation (or copy thereof) or under 6051(d) with respect to wages paid to an employee shall be open to inspection by the proper officers of the Pension Benefit Guaranty Corporation.".

(B) Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by—

(i) striking out "(A) IN GENERAL.—" in subsection (a)(1) and inserting in lieu thereof "(i) EXEMPT ORGANIZATIONS GENERALLY.—",

(ii) inserting "(A) IN GENERAL.—" in subsection (a) immediately after "(1) PUBLIC INSPECTION.—",

(iii) inserting the following clause immediately before subparagraph (B) of subsection (a)(1):

"(ii) PENSION, PROFIT-SHARING, AND STOCK BONUS PLANS.—An application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a), 404(a)(2), or 405(a), covering more than 25 persons or with respect to the exemption from taxation under section 501(a) of an organization forming a part of such a plan, together with any papers submitted in support of such application, shall be open to public inspection at such times and in such places as the Secretary or his delegate may prescribe.", and

(iv) striking out "and 6056" in subsection (b) and inserting in lieu thereof "6040, and 6056".

(3) PENALTIES.—Section 6652 (relating to failure to file certain information returns) is amended by adding at the end thereof the following new subsection:

"(f) INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION.—In the case of failure to file a return required under section 6040 (relating to information required in connection with certain plans of deferred compensation) or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans) on the date and in the manner prescribed therefore (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day during which such failure continues, but the total amount imposed hereunder on any person for failure to file any return shall not exceed $5,000.".

(l) EXCESS CONTRIBUTIONS.—Section 401(e)(1)(B) is amended by striking out clause (ii) and inserting in lieu thereof:

"(ii) with respect to any plan other than a defined benefit plan, the amount of any contribution made by any owner-employee (as an employee) at a rate which exceeds the rate of contributions permitted to be made by employees other than owner-employees;"

(m) PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS.—Section 402(c) (relating to definitions and rules relating to self-employed individuals and owner-employees) is amended by adding at the end thereof the following new paragraph:

"(6) ADDITIONAL REQUIREMENTS FOR QUALIFICATION OF TRUSTS AND PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of paragraph (1) shall constitute a qualified trust only if—

"(A) under the plan, forfeitures attributable to contributions made on behalf of an employee other than an employee within the meaning of paragraph (1) may not inure to the benefit of any individual who, at any time during the period beginning with the taxable year for which the contribution is made and ending with the taxable year during which the forfeiture occurs, is an employee within the meaning of paragraph (1),

"(B) in the case of a defined benefit pension plan, a separate account is maintained with respect to all participants under the plan who are not employees within the meaning of paragraph (1) and another separate account is maintained with respect to all participants under the plan who are employees within the meaning of paragraph (1), and

"(C) it meets the requirements for a qualified trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c)(1) or proprietary employees within the meaning of section 412(b)(1), as those requirements are defined in subsections 401(j) and 401(k).

(n) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6033(c) (relating to cross-references) is amended by adding at the end thereof the following:

"For provisions relating to information required in connection with certain plans of deferred compensation, see section 5040.".

(2) Section 6047 (relating to information with respect to certain trusts and annuity and bond purchase plans) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) CROSS REFERENCES.—

"(1) For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).

"(2) For criminal penalty for furnishing fraudulent information, see section 7207.".

(3) Section 6051 (relating to receipts for employees) is amended by inserting after "exemption," in subsection (a) the following: "or who pays wages as defined in section 3121 (a), 3306(b), or 3041(a) to an individual who is an active participant in a plan described in section 219(b)(2),".

(4) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6040. Information required in connection with certain plans of deferred compensation.

"Sec. 6040A. Cross references.".

(5) Section 62 (relating to definition of adjusted gross income) is amended by adding after paragraph (9) the following new paragraph:

"(15) MONEY PURCHASE PENSION PLANS.—The deduction allowed by section 410(c).".

(6) CLERICAL AMENDMENTS.—

(A) The table of sections for part I of subchapter D of chapter 1 as amended by sections 701(b) and (e) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 410. Inclusion of certain employer contributions in gross income.".

(B) The table of sections for subchapter B of chapter 68 as amended by section 221(b) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 6691. Reports by employers.".

(c) EFFECTIVE DATES.—Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1974.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 9286, which the clerk will state by title.

The legislative clerk read the bill by title, as follows:

A bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

Mr. TOWER. Mr. President, during the debate of the military procurement bill on the floor of the Senate, we are likely to hear over and over again how defense spending is bankrupting the country. That, of course, is a ridiculous claim for defense spending now runs about 6.4 percent of the gross national product compared to 13.3 percent in 1953, 8.8 percent in 1961, and 9.4 percent in 1968. Defense spending has dropped steadily from 1953 when it was 60.5 percent of the budget to 1973 when it will be about 30 percent. In the September 14, 1973 issue of the Los Angeles Times there appeared an article by Ernest Conine on precisely this issue of defense spending. Because my colleagues must pick fact from fiction in the current debate, I ask unanimous consent that the 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:

[From the Los Angeles Times, Sept. 14, 1973]

OUR MILITARY SPENDING MYTH—AND THE REALITY OF RUSSIA

(By Ernest Conine)

When President Nixon told Congress the other day that he would veto any cuts in military spending that would imperil national security, Senate Democratic Leader Mike Mansfield grumped that "if we are not careful, we will 'defense' ourselves into bankruptcy."

It was an absurd assertion, as anybody knows who has bothered to look at the actual figures on federal outlays for military versus civilian purposes in recent years. But a myth has taken root that the Pentagon is spending the country into the poorhouse—and the myth will be cited again and again during the current Senate debate on military appropriations.

It would be ridiculous, of course, for Mr. Nixon or anyone else to claim that every item in the military budget is sacrosanct.

The services are top-heavy with admirals and generals, and Congress could do the country a favor by writing a formula forcing the Pentagon's top brass to do something about it. The proportion of servicemen who are actually combat personnel instead of cooks, clerks and bottle washers is astoundingly low. There is still a tendency to drive costs up through wasteful procurement practices.

Obviously there is water in the defense budget. Congressional pressure, sensibly applied, can help prod the Pentagon into providing a leaner, tougher and more cost-conscious defense establishment.

The trouble is, though, that too many politicians find it convenient to go much further, to pretend that military spending has been roaring out of control while outlays for health, education and other domestic programs have been kept on a cruelly short leash. It just isn't so, and perpetuating the myth that it is could prove a dangerous hoax on the American people.

This year's defense budget is about $80 billion—almost precisely the same as five years ago when President Nixon took office. If inflation is taken into account, it is almost a third less. As the President observed last Monday, "In constant dollars, our defense spending in this fiscal year will be $10 billion less than was spent in 1964"—a pre-Vietnam year when the military budget barely exceeded $50 billion.

Military spending this year will amount to less than 6% of our gross national product—the lowest level since 1950. In other words, the share of our national wealth going for defense purposes is decidely down not up.

Spending for nonmilitary purposes, meanwhile, has far outrun inflation. Chairman John L. McClellan (D–Ark.) of the Senate Appropriations Committee points out, "Twenty years ago, defense spending was nearly double that of all other federal agencies and departments combined. Today, the other federal agencies spend a total of more than twice as much as defense. Twenty years ago, defense-spending was also nearly double that of all state and local governments combined. Today, state and local government spending is more than double that for defense."

Since 1964, overall federal spending has gone up by $150 billion. Of that increase, only 19%, or $28.6 billion, was for defense.

Looking at the Nixon years alone, spending for community development and housing has increased from $2 billion to almost $5 billion a year. Spending for education and manpower training has gone from $6.5 billion to $10 billion, and federal outlays for health have almost doubled from $11.2 billion to $21.7 billion. Military spending, while up about 3 billion over last year's level, is roughly the same as in fiscal 1969.

In short, if we are spending ourselves into bankruptcy, as Mansfield suggested, the military budget is nowhere near the top of the list of reasons.

Unfortunately, there is no sign that the same sort of reshaping of priorities is happening in the Soviet Union

The London-based Institute for Strategic Studies; in its annual assessment of military power, observed that the Soviet Union is spending at least as much as the United States and perhaps more—this on a gross national product only half as large as ours. Furthermore, Russian soldiers are paid only a fraction as much as ours, meaning that the Kremlin has that much more to spend on new weapons—and is clearly doing so.

According to the institution, the Soviet Union is rushing to build the maximum number of long-range missiles permitted under the Phase 1 strategic arms limitation agreement—2,359. The agreement limits the United States to 1,710 offensive missiles.

Three new types of long-range, land-based missiles are under development by the Russians, the institute says, and Soviet shipyards are already turning out submarines armed with missiles capable of traveling 4,600 miles. The U.S. Navy will have nothing to match before 1978—and not then, if the congressional economy bloc has its way.

The United States still has a big lead in warheads, but this may evaporate within a few years, too, now that the Russians have successfully tested multiple, independently targeted warheads of their own.

Obviously, it is extremely important to head off the arms race, so that we—and, we hope, the Russians—can spend less for defense. That is the object of the Phase 2 SALT negotiations that get under way soon.

Mr. Nixon rightly points out, however, that it would be dangerous to confuse wish with reality—that, welcome as the seeming birth of a new era of detente with the Russians may be, it would be folly to call off the American half of the arms race without regard to whether the Soviet Union proves willing to call off its half.

U.S. TROOPS STATIONED ABROAD

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a number of newspaper articles and letters concerning the subject of U.S. troops stationed abroad. I also ask unanimous consent to have printed in the RECORD my testimony before the Subcommittee on Arms Control, International Law and Organization on July 25, 1973.

There being no objection, the mate-

rial was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Sept. 13, 1973]

NATO DRAFTS PLAN FOR TROOP CUTBACKS

(By Robert C. Toth)

WASHINGTON.—In a further attempt to relax cold war military postures, the United States and its NATO allies soon will propose to the Warsaw bloc that each side cut its total forces in Central Europe to the same level of about 700,000 men, The Times has learned.

This would mean a 10% NATO reduction and a 20% Communist reduction, to take place over several years.

For the United States and the Soviet Union, the cuts would be deeper—15% by each nation in the first phase, which could begin next year, and perhaps another 15% in the subsequent phase.

Numerically, 28,500 American soldiers would come back in Phase I, and perhaps 3,000 U.S. airmen, if the Russians can successfully bargain for air force as well as ground troop cuts.

American forces in Europe total slightly more than 300,000 troops of all descriptions. Of these, 190,000 are assigned to ground forces in Germany and 22,000 are attached to air units there. The balance are assigned to support units, to Greece and Spain, and to the 6th Fleet in the Mediterranean.

On the Soviet side, Phase I would mean the withdrawal of 67,500 men, with NATO expected to call for the withdrawal of some Soviet armor units as well as foot soldiers.

The NATO proposal, largely a plan presented to the alliance by the United States in June, should be completed formally very soon. It will be presented at the mutual and balanced force reduction talks that reconvene in Vienna Oct. 30.

These talks will rival in interest and importance the initial strategic arms limitation talks which culminated in a Soviet-American agreement at the 1972 Moscow summit.

The scheme should satisfy to some extent those congressmen who have been calling for deep cuts in U.S. forces abroad, to be made unilaterally, if necessary. Mike Mansfield (D-Mont.), the Senate's majority leader, recently proposed a 50% cut in American ground troops abroad over a three-year period, with at least 25% from each major theater of operation.

If the Soviet-led Warsaw bloc eventually accepts the NATO proposal, up to 30% of U.S. ground forces in Europe will be brought back within the Mansfield timetable.

Unless the men are demobilized, however, little monetary saving will result and perhaps, if huge new air transport systems are needed to return them quickly in time of crisis, it may cost more to station them here than in Europe.

Even if the Soviet Union does accept the basic outline for an agreement, many difficult issues remain. Should equipment like artillery and tanks be left behind, be brought out with withdrawing troops or be destroyed? If some U.S. air power is withdrawn, will the number of U.S. nuclear weapons in Europe—over 7,000—also be cut? How can cuts be verified?

The Administration's proposal to some extent appears to be a revision in its thinking on a fundamental problem: returning troops to Europe would be far harder for the United States than it would be for the Soviet Union, whose forces will be only a few hundred land miles away.

In his "state of the world" message of 1971, President Nixon appeared to rule out cutbacks of equal percentages. Among "tentative findings," he wrote:

"The U.S.S.R. can mobilize and reinforce its forces in Central Europe much more rapidly than NATO. Therefore, any agreement to reduce forces simply on an equal percentage basis is inherently unfavorable to NATO, and the larger the percentage, the greater the inequity."

Mr. Nixon's remarks were read to mean that the Russians would be asked to cut a greater percentage of their forces than the United States, which is the main counter-balance to Soviet armed might in Europe.

NIXON MESSAGE

The U.S. argument for cutbacks to a common ceiling was made in Mr. Nixon's 1972 state of the world message, released last May. "Reduction to equal levels" on both sides of the Iron Curtain, the message said, would require "some unequal cuts in absolute numbers, but the residual capabilities would be more balanced and offensive potential would thereby be reduced."

Whether the Russians will agree to the cutbacks as outlined is not known since the plan has yet to be presented to them. The expectation is that while they may refuse to accept a common ceiling, at least explicitly, they will agree de facto to that goal by accepting the troop reductions.

Many NATO leaders in Europe initially were suspicious that the U.S. proposal was intended only to cover a U.S. withdrawal from Europe.

AGAINST CUTS

Military men, particularly in Britain, argued against any reduction, since the thinner NATO's defense line, the greater the advantage of potential aggressors who could concentrate their forces. Until recently, Britain opposed a second phase cutback in the NATO plan.

West Germany insisted on phase II withdrawals, demanding that they be explicitly mentioned in the phase I agreement, however vaguely. It wants to benefit from the reductions by demobilizing some of its 327,000-man army, and it believes that a U.S.-only cutback would leave Germans feeling isolated.

The lineup across the "central sector" of Europe now is 890,000 Warsaw bloc troops—of which 450,000 are Soviet, with the rest divided between the Poles, Czechs and East Germans—and 780,000 NATO troops. Reduction to the common ceiling would mean an 80,000 cut for NATO, a 190,000 cut for the Warsaw bloc.

MIX OF FORCES

The reductions to occur in phase II would include a mix of all forces in NATO and in the Warsaw bloc. There has been considerable debate within NATO on how many troops each ally would cut.

If the United States gets another 15% cut in phase II, for example, there would be less than 30,000 men to be cut from other NATO countries to reach the common ceiling. The West Germans have not mentioned how much they would like to reduce their forces, but they might resent such a big American bite the second time around.

Besides United States and West German forces in the central sector, other NATO forces include 55,000 British soldiers (plus 8,600 airmen), 2,800 Canadians, 25,000 Belgians and about 300 troops from the Netherlands.

France, which is ostensibly outside the NATO military structure and strongly opposed to the force reduction talks, has about 50,000 men in West Germany. It is not expected to make any cuts.

[From the Washington Star-News, Aug. 22, 1973]

PENTAGON TO CLOSE MORE BASES

Defense Secretary James R. Schlesinger has told the armed services to prepare for possible new base closings and cutbacks before next year's congressional elections.

This would be the second wave of base cutbacks in about a year.

The Pentagon in April closed, reduced or consolidated 274 installations in 32 states at a claimed savings of $3.5 billion over the next 10 years.

Since then, Congress has been cracking down hard on defense money requests for new weapons and one key committee has voted to cut the armed forces 156,000 men below what the Nixon administration has planned for the post-Vietnam era.

Pentagon sources said Schlesinger has directed the Army, Navy, and Air Force to review their requirements and to send him a list of expendable installations by mid-December.

Congress will have finished work on the defense budget by then, and Pentagon leaders will know where they stand.

Sources said Schlesinger has not given the services specific guidelines in determining which bases could be closed. The number could run into the hundreds, and probably would include some overseas. There are 451 major bases in the United States and 323 abroad.

Any new base closings and cutbacks probably would be announced early in 1974 when the next budget goes to Capitol Hill but would not take effect until after the voters pick their representatives and senators in next November.

Congressmen can be expected to fight the loss of bases in their states, and the jobs that go with them.

There are indications that the Air Force may have to close the most bases. Officials say bases that have been reduced in stages over the years probably will be the first to go.

Shrinking faster than the other services, the Army seems likely to close at least one of its six training centers, probably the one at Ft. Dix, N.J.

[From the Washington Post, Aug. 23, 1973]

PENTAGON PREPARES TO CLOSE MORE BASES

(By Fred S. Hoffman)

The Pentagon said yesterday that it expects to order significant new base closings by next spring.

It confirmed reports that Secretary of Defense James R. Schlesinger has ordered the armed services to prepare for possible new base cutbacks before next year's congressional elections.

This would be the second wave of base closings in about a year.

"We are looking closely at U.S. military bases both in the United States and overseas with a view to closing those found to be unnecessary or underutilized," the Pentagon said in a statement.

"No decisions have been reached and none are expected immediately. However, we do expect to produce a significant base closure package within the foreseeable future, but we can't say now whether this will occur next winter or next spring."

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Congressmen can be expected to fight the loss of bases in their states, and the jobs that go with them.

But Schlesinger has shown signs he intends to be tough in dealing with Congress, an attitude reminiscent of former Defense Secretary Robert S. McNamara.

All the services operate some bases they would rather shut, but evidently have been unable to do so because of political pressure. They would rather spend the money on keeping more ships, planes, and other military hardware in operation.

There are indications that the Air Force may have to close the most bases. Officials say bases that have been reduced in stages over the years probably will be the first to go.

Shrinking faster than the other services, the Army seems likely to close at least one of its six training centers, probably the one at Ft. Dix, N.J.

The Navy might eliminate a shipyard and perhaps seven other major shore installations.

[From the Allentown (Pa.) Sunday Call-Chronicle, June 10, 1973]

TAXPAYERS WILL PAY PLENTY TO SUPPORT ARMY IN EUROPE

(By Ray Howard)

The Pentagon has announced that we are going to support 300,000 men in Europe again next year. The same Pentagon generals estimate that the cost of those 300,000 men is going to be $17 billion.

Now those are very important figures.

They mean that we are going to dump billions of dollars in Europe so we can topple our already tipsy balance of payments situation. That means more devaluations and more inflation for the folks back home.

Those figures also mean that the boys in Europe are costing you about 20 cents on every dollar of federal income taxes you pay, since $17 billion is about 20 per cent of projected personal income tax collections.

But most interesting of all is how those two figures go together—$17 billion to support 300,000 men. Run those through your pocket calculator just one time.

ASTRONOMICAL FIGURE

It comes to $56,667 per soldier!

We are spending $56,667 for every private, corporal, sergeant, captain, colonel and general stationed in Europe. But official budget figures say that pay and allowances average only $7,550 per man.

So what happens to the missing $49,117?

Well, there is a lot of support needed, according to the Pentagon generals. That $56,667 per man includes food, shelter, guns, tanks, ammunition, helicopters, supply dumps and other expensive toys.

But no matter how you cut it, $56,667 soldiers don't come off as much of a bargain. By comparison, $10,000-a-year schoolteachers look cheap. And $9,500 cops look like a steal.

But that's just my opinion. What we need are facts. So I decided to do some checking with some famous civilian generals. For example, I contacted the big auto general, General Motors. And the two food generals, General Foods and General Mills. Then the utility brass, General Telephone. I also scrubbed the figures of General Electric, General Dynamics and General Tire.

How much do they spend per employe?

GENERAL MOTORS STORY

It must be over $70,000 per man at General Motors because auto workers make a lot more than privates, and corporate officers make a lot more than Army officers. And General Motors has $18 billion in machinery, factories, supplies and staff to cover each year.

Surprise, counting all 1971 costs, including taxes, General Motors spends only $4,000 per employe. That's 40 per cent less than the Pentagon generals are spending on our boys in Europe. In 1971 General Motors made profits of $1.9 billion. But if they had spent $56,667 per employee, General Motors would have lost $15.5 billion!

General Electric? On the same basis, $25,000 per employe—or less than half of what the Pentagon spends on a boy in Europe. Wait until the electrical workers hear about that.

TELEPHONE EXPENDITURES

General Telephone was even more efficient in 1971. They spent only $21,000 per telephone man. And that included executive airplanes, executive toilets, executive expense accounts—the works. If General Telephone had spent $56,667 per employe in 1971, it would have lost about $6 billion.

If General Foods had spent $56,667 per employe in 1971, it would have lost over $300 million. Its competitor, General Mills, spent only $33,000 per cereal man in 1971. But if it had been as big with your buck as the Pentagon was, General Mills would have lost over $700 million.

General Tire was no exception. It made $48.8 million in profits in 1971. But if that rubber general had spent like the Pentagon generals it would have lost $8 billion.

DEFENSE CONTRACTOR

How about General Dynamics? This general is a defense contractor, which often means it is extremely inefficient. Maybe so. But the data says that it spent only $28,000 per employe—or less than half of what the Pentagon spends per man in Europe.

Let's sum it all up.

In 1971, the seven civilian generals made profits of almost $3 billion. They employed 1.5 million people. Their average cost per employe was $30,000. But if they had spent money like the Pentagon generals, the seven civilian generals would have lost $36.8 billion in 1971.

And you think you are being taken at the meat counter?

STICK TO YOUR GUNS AND HURRY

(By Henry J. Taylor)

NEW YORK.—Defense Secretary James R. Schlesinger has privately given President Nixon a top-secret, green-covered book. It requires 712 pages merely to list America's overseas bases and the installations where we maintain U.S. troops.

Incredibly, we have a military presence today in 38 countries.

Much of this costly presence results from 42 treaties—some as obsolete as the Queen of Sheba's camel.

Mr. Schlesinger noted to Mr. Nixon that we are spending nearly 5 billion dollars this year on these presences and that, almost half of them are a balance-of-payments drain on the United States.

Then Schlesinger included the crusher: Only about 200 of the citations in the 712 pages are officially listed as vital, even assuming the maintenance of five U.S. divisions in Europe to live up to our NATO commitment.

WINDOW DRESSING

For years on end we have poured our taxpayers' billions, and recklessly strained our balance-of-payments problem, by window-dressing defense treaties that were utterly powerless to frighten or restrain an enemy. But old, obsolete treaties never die—they have just spent and spent away.

Our largely inoperative SEATO (Southeast Asia Treaty Organization) was signed in 1954. Japanese reluctance to support it stems from our doubtful attempt to link it with ANZUS, the Australian-New Zealand-U.S. security pact which is operative in Vietnam. Yet we have poured more and more money and trained personnel into the old SEATO setup just the same. Schlesinger underscored that to Nixon.

The NATO pact was signed in 1949. Twelve countries signed it. Greece, Turkey and West Germany were included later. The members agreed to settle disputes by peaceful means; to develop their individual and collective capacities to resist armed attack; to regard an attack on one as an attack on all, and swore to try to repel it under Article 21 of the United Nations Charter.

COSTS SKYROCKET

When President Charles de Gaulle threw NATO out of France the loss to the United States in our NATO investment inside France exceeded 2.5 billion dollars. But we are, nevertheless, still obligated to come to the aid of France under the Brussels Treaty of March 17, 1948. This treaty of 25 years ago, which formed the Western European Alliance, NATO's predecessor, is still operative.

Meanwhile, except Greece and West Germany, not a single one of the NATO allies has at any time met its level-of-forces obligation under the NATO pact.

About 300,000 of NATO's armed men are Americans. Mr. Schlesinger estimated to Mr. Nixon that, since the dollar devaluation it costs at least 8,000 dollars a year to keep one U.S. fighting man in Western Europe. That's 2.4 billion dollars a year against our balance of payments, plus a Mt. Everest of extras.

Schlesinger expressed skepticism about the claims that NATO intelligence recently supplied in Brussels. He said the intelligence chiefs there believe the Soviet and satellite striking power against NATO is today vastly increased through advanced (still secret) missiles, better general weaponry, nearly complete motorization and large-scale maneuvers.

DIFFERENT VIEW

They told Mr. Schlesinger that, the buildup against China notwithstanding, around 70 per cent of the Soviet satellite ground and air forces now face NATO.

Differing with this, Schlesinger stated that he believes about 30 fewer Russian and Warsaw Pact divisions face NATO than calculated in Brussels. And he told the President we should decrease the U.S. costs by requiring our NATO allies to finance most of the U.S. military maintenance in this presence.

He estimated this gain to us as at least 1.5 billion dollars annually.

In Schlesinger's expressed opinion the question is not NATO's potential value, for NATO is indispensable. The issue is the real effectiveness of disproportionately large U.S. ground forces if our NATO allies fail to supply their own.

Summarizing to President Nixon the 712-page secret listing, Schlesinger insisted that merely translating "a crusading spirit" into frail and ambiguous treaties, promoted "to show a united front with the United States," means absolutely nothing in our defense system. Nor does the money and trained personnel that we pour into them.

Behind the scenes President Nixon now has this entire matter of obsolete treaties under top-to-bottom review.

FACT SHEET ON U.S. TROOPS OVERSEAS

A major issue in the debate on military spending is the deployment of U.S. forces overseas. Sen. Mike Mansfield intends to introduce an amendment to cut 250,000 of the 500,000 non-naval forces over a three year period. Other amendments calling for smaller reductions are likely when the Department of Defense Authorization bill is considered.

There is considerable confusion concerning the extent of our overseas deployment with the debate centering around two points. The first concerns the 313,000 troops stationed in

Western Europe and related areas (areas which include Morocco, Iceland and Turkey), including 228,000 troops in Germany as of March 31, 1973. Reduction of these forces is complicated by the U.S.-Soviet talks on mutual troop reductions, by the feeling of some that any reductions should be negotiated in concert with our NATO partners and by fears of others of upsetting major political developments in Europe such as Chancellor Willy Brandt's Ostpolitik and the movement toward economic and social integration in Europe.

The second part of the debate is the almost 300,000 troops located in the rest of the world; these could be cut back without getting into some sensitive European issues. Included are 42,000 troops in South Korea, 45,000 in Thailand, 15,000 in the Philippines, 9,000 in Taiwan, 17,000 in Guam and 58,000 in Japan and the Ryukyus Islands. Healthy cutbacks can be made in these areas without endangering U.S. security; what is needed is an effort to eliminate troop commitments resulting from the crises and threats of 20 years ago.

Unfortunately, many thinking about troops overseas concentrate only on Europe without considering the massive U.S. troop commitments elsewhere. The overall statistics are staggering:

The Department of Defense maintains 1,963 bases, installations and properties abroad, including what it terms 322 significant bases (April 17, 1973, news conference with Secretary of Defense Elliot Richardson).

The Pentagon estimates that the total cost of our NATO commitment alone—including all U.S. forces committed to NATO and their support—will run to about $16.8 billion in FY 1974 (Pentagon Directorate for Defense Information, Press Division, March 8, 1973). Senate Majority Leader Mansfield estimates the total cost of all U.S. troops overseas to be about $30 billion.

The Department of Defense employed 166,984 direct hire and indirect hire foreign civilians throughout the world to support U.S. troops overseas at the end of February 1973 (DOD Information Office, Legislative Affairs).

Additionally DOD employed 78,870 U.S. civilians outside the United States as of June 1973 (Additional Report of the Joint Committee on Reduction of Federal Expenditures, Joint Committee Print No. 353, June 1973).

Accompanying the forces overseas are 365,413 military and civilian dependents outside the U.S. as of September 1972 (Office of the Assistant Secretary of Defense, Comptroller, January 18, 1973).

The net negative U.S. balance of payments deficit for all FY 1972 military transactions, which includes a negative balance on direct expenditures and a positive balance of sales, was $3.6 billion, the largest since World War II (Economic Report of the President, January 1973, p. 293).

The impact of these statistics is clear: the U.S. maintains a huge military establishment abroad which requires enormous support, is costly and adds to our balance of payments deficit. Moreover, most of these deployments were made as a consequence of a world situation which has changed drastically. In the last two years, President Nixon visited Peking and Moscow. Chairman Brezhnev visited Washington. Last year the U.S. and the U.S.S.R. signed the SALT accords limiting both offensive and defensive weapons systems. U.S. trade with communist nations is rapidly growing. This year we withdrew the last of our combat troops from Vietnam. In April 1973 the Pentagon announced the elimination, reduction in size or consolidation of 274 military installations within the U.S. with a resulting job loss of 42,800. Yet, we still maintain over 600,000 troops abroad.

The changed situation is perhaps best illustrated in South Korea. The last extensive fighting there occurred over 20 years ago. Since then the South Koreans have built up their ground combat forces to 600,000, many of whom are Vietnam combat veterans, backed by a large trained reserve, while North Korean ground combat forces are estimated at 360,000, most of whom have not fought in 20 years. In addition, the two Koreans have begun their own set of detente negotiations.

Yet the U.S. still has 42,000 troops in South Korea. The pay, upkeep and operating costs in FY 1972 were $584 million. In addition, South Korea received $192 million in U.S. economic assistance and $155 million in military assistance. This expensive troop commitment is an anachronism of past crises.

This tendency to stick with the status quo in defiance of changed world conditions persists with our overseas troop deployments. Congress should start asking such questions as whether we should have any troops in Taiwan at a time when we are establishing ties with China. Do we still need 45,000 troops in Thailand after the withdrawal of U.S. troops from Vietnam? Is it necessary to maintain 97,000 U.S. forces afloat? (The U.S. has announced some withdrawals from Taiwan and Thailand.)

Military arguments revolve around the need to demonstrate the strength of U.S. commitments to the many countries in which we have troops by providing a "tripwire" to assure an immediate U.S. response in case of attack. Few expect the U.S. to engage in massive land combat in most of the places we maintain troops. Therefore the U.S. could deploy many less than the 600,000 "tripwires" around the world and still assure U.S. commitments.

Neither the Nixon Administration nor the countries in which we maintain forces have much incentive to begin reducing the U.S. overseas troop strength. The hard questions raised by new political and economic developments are ignored by keeping a status quo force level. It is up to Congress to encourage new thinking which can be brought about by passing legislation forcing the first troop reductions overseas.

Now is the time to cut overseas deployments. The tremendous costs associated with placing 600,000 troops abroad should be cut. Such reductions will not hurt our military security; they will aid our economic and social security.

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES AS OF MARCH 31, 1972

Total Outside the United States	606,000
U.S. Territories and Possessions	42,000
Foreign Countries	564,000
Selected areas	
Southeast Asia	63,000
Thailand	45,000
Afloat	18,000
Western Pacific	164,000
Japan	18,000
Philippines	15,000
Ryukyu Islands	40,000
South Korea	42,000
Taiwan	9,000
Afloat	40,000
Other areas	66,000
Bermuda	1,000
Canada	2,000
Cuba	3,000
Guam	17,000
Panama Canal Zone	10,000
Puerto Rico	7,000
Afloat	16,000
Other	10,000
Western Europe and related areas	313,000
Belgium	2,000
Germany	228,000
Iceland	3,000
Italy	10,000
Greece	3,000
Morocco	1,000
Netherlands	2,000
Portugal	2,000
Spain	9,000
Turkey	7,000
United Kingdom	21,000
Afloat	23,000
Other	2,000

Less than 250: Antarctica, Bahamas, Bahrain, Leeward Islands, New Zealand, Norway, Saudi Arabia, South Vietnam.

Less than 1,000: Australia, Cyprus, Ethiopia, Greenland, Iran, Johnston Island, Midway Island.

All other countries: Less than 100 U.S. military personnel.

From: OASD (Comptroller), Directorate for Information Operations.

Foreign civilians employed by DOD—February 28, 1973:

Direct hire	57,040
Indirect hire	109,944
Total	166,984
U.S. civilians employed by DOD outside the U.S.—June 1973	78,870
Military and civilian dependents outside the U.S.—September 1972	365,413

AUGUST 1, 1973.

Hon. MIKE MANSFIELD,
Washington, D.C.

DEAR SIR: 1. Although I am not an American Citizen I am married to an American and would like to take this opportunity to relate some of the situations faced by Americans (especially Servicemen) here in Germany.

2. With the 10% dollar devaluation and the rise in the cost of living, (the price freeze does not affect the Commissary or BX), a number of married servicemen are considering or already have sent their dependents back to the States. Frankly they just can't afford to pay the rent or apartments here. On an average a one bedroom apartment costs between 350 to 420 Deutsche Marks a month. With the fluctuation of the dollar from 2.40 to 2.26 marks per dollar the rent can run as high as $150 to $190 a month. Now you start talking about family apartments of two and three bedrooms then you can estimate $250 to $300 a month, depending on the exchange rate. Under German law a landlord can charge more rent for military members (even their own) than civilians.

3. The devaluation has also hit the servicemen in the form of car insurance. Our 1971 VW Beetle cost us over 500 marks per year for liability insurance only, full coverage is way beyond our means. My husband was stationed in Germany in October 1968 and has not had an accident or made a claim against his insurance but he does not receive any discount whatsoever. A German, on the other hand, can receive a 50% reduction on his insurance if he has not made a claim. The insurance companies claim that American cars cost more to repair, but they do not take into account that a large number of Americans drive European cars.

4. When the dollar was devalued 10% the BX, to cover paying local nationals in marks, raised prices on most of their stock 13%. The serviceman lost again. For example, prices in the Rhein-Main Commissary are rising all the time. T-Bone steak costs from $1.89 to $2.00 a pound (this is U.S. beef and

has been frozen once and sometimes 2 or 3 times before it is bought). You may say the costs are high in the States, but at least you can shop around for "specials" and you have a choice of stores, here we do not, it is the Commissary or nothing.

5. Now we come to the wives working to supplement the pay check. Yes, if most of them could get decent jobs they probably would. Sir, the minimum wage right now on Rhein-Main is $1.73 an hour (as of 16 August the minimum wage will be $1.83 an hour). The wage scale ranges from a laborer or chambermaid at $1.73 to clerical positions or supervisory positions up to $2.20 an hour. These are the nonappropriated funds positions including the hotel, clubs, audio club and EES. Of course there are a few appropriated funds positions but the waiting lists for these positions far exceeds the number of available positions. As these people pay American income tax, social security, etc., why are they not paid the minimum wage effective in the United States? Plus under the Status of Forces Agreement only a limited number of positions can be filled by American dependents, with the better positions being filled by local nationals.

6. In conclusion I think it is about time the American public learned of the plight of their servicemen overseas. These men are here under orders. These young men are living in barracks of substandard conditions as these buildings are the same ones erected after the end of the war. Morale is low and some of the unmarried first term airmen are turning to drugs or alcohol for solace. From what I hear drugs are readily available and cheap. Don't let anyone tell you there is no drug problem in Germany. If there is none how come bases have a drug and alcohol abuse program in effect, the Customs MP's are using dogs to search baggage of military members and dependents and a "no notice" urine testing program is in effect at Rhein-Main Air Base to try to determine the drug users in the under 25 age group. Unless conditions improve in the near future, many of these young men are going to get into trouble which could be avoided.

7. I am sorry I have taken up so much of your valuable time but these things have needed to be said for a long time. The general opinion in Germany is that the Government has forgotten them or just doesn't care. Thank you for your time and attention.

Sincerely,

———— ————.

PSC Box 1364, APO New York,
July 31, 1973.

Senator M. Mansfield,
U.S. Senate,
Washington, D.C.

Dear Senator Mansfield: For many months I have been aware of the numerous problems facing the American military and civilians living in Germany—money, housing, rent, and the ever increasing loss of the dollar's purchasing power. Vigorous action on the part of our government is needed to ease the burden of devaluation now being suffered by all, and this action is needed NOW.

Headlines such as "New Housing Indexes are Released" advising of DoD record-breaking increases in housing allowances for troops stationed in Germany, "Higher COLA and HOLA announced" certainly helps the serviceman but what about DoD civilians? Why does it cost a captain with a family of three, living on the economy more to live than his civilian counterpart, a GS–11? It doesn't! Their basic salary is comparable yet the captain gets all kinds of allowances in addition to his salary with timely increases, while the DoD civilian gets a mere housing allowance which is not only after the fact but considerably below the actual costs.

To get down to cold, hard facts of the effect of the dollar devaluation, below are listed actual cost increases sustained by us since February when the dollar was first devalued:

Rent—DM cost and actual amount in dollars as cleared by bank

February:	
DM820	$257.05
March:	
DM820	290.78
April:	
DM820	297.10
May:	
DM820	315.38
June:	
DM820	356.52

Housing allowance presently received bimonthly is $134.00.

As you can see, our rent has increased, in dollar amounts, a whopping $99.47, an increase of 39% each month. What pocket can withstand this month after month with no relief in sight? Cost of oil for hot water and heat has increased $35.20 since February for each delivery. Utilities—gas, water and electricity, all of which has to be paid in Deutsch Marks, have increased by 35%. On July 26, 1973, in Stars and Stripes, European Exchange System (EES) announced an increase in gasoline prices of 36% effective July 27! This is in addition to the 16% hike in February. Our gas has increased a total of 52% since February, a mere five months. With all these price hikes, including all merchandise in the Base Exchange, food and merchandise in the Foodland and all services, caused by the dollar devaluation, there has been no relief for DoD civilians stationed in Europe.

Letters have appeared in Stars and Stripes lately, pertaining to our plight. I have copied a few and they are enclosed for your information and action. Especially informative and honest in its evaluation of the American military overseas is the letter by Tony Lutz, Baumholder, which appeared in the July 24 issue of Stars and Stripes. I have marked it in red for quick ready reference.

This is no "dream junket" we're on; living overseas, representing our country and trying to do a good job becomes increasingly harder as we are sacrificed to devaluation.

The situation in Europe and especially West Germany at the present time for military and DoD civilians is deplorable and remedial action is needed immediately. We are sick to death of reading remarks such as those of NATO secretary Joseph Luns, who stated, ". . . United States would 'demoralize' Europe if it withdrew troops unilaterally from the continent," without any thought given to the demoralization that has been occurring among the U.S. forces stationed in Europe and in particular West Germany since February 1973. This demoralization is occurring because of the devaluation and little or no financial relief has been given to these forces.

I read with interest Senator Kennedy's comments regarding closure of U.S. bases while keeping overseas bases open, giving work to Local Nationals (Germans, Italians, Spaniards, etc.) while our own people were unemployed. This is an excellent point. Not only are we continuing to pour dollars overseas, adding to our deficit balance of payments but we are paying out hundreds of thousands of dollars in fringe benefits to Local Nationals because of antiquated and irrelevant Status of Forces Agreements.

Do you know that a Local National employee is entitled to what is termed "kur leave" every five years? This entitles the employee, upon the advice of his or her physician, to six weeks sick leave to go to a sanatorium, and to an additional two weeks "post kur" if necessary. A total of eight weeks! All on full pay in addition to normal sick leave and annual leave. Naturally, this "kur leave" is used extensively at Uncle Sam's expense!

How long must this farce of defending Europe at the expense of our own country and citizens go on? Kenneth Rush was quoted in the July 26 edition of Stars and Stripes: ". . . U.S. Forces in Europe play an important role in deterrence; make a significant contribution to defense, reassure allies about the U.S. commitment and bolster negotiations with the East. We cannot negotiate from a posture of weakness and retreat." What rubbish—it is certainly not "retreat" to withdraw unnecessary troops from Europe and save our country billions of dollars by doing this. We certainly cannot negotiate with an economy floundering and weakened by the drain on our budget, a deficit balance of payments, our people unhappy and demoralized, and inflation running rampant from coast to coast. Rush went on to say that it cost $4 billion a year to maintain 300,000 men in Europe, but if they were brought home and not demobilized the cost would rise to $7.7 billion. What he failed to point out, however, was that this $7.7 billion would remain within the continental United States and would not be poured into the European economy, further devaluating the dollar and fattening the pockets of our now prosperous European allies.

I await word of your actions on our behalf.

Sincerely,

———— ————.

[From the Stars and Stripes,
July 12, 1973]

Time Has Come To Rock Boat

For many months I have been acutely aware of the foremost problems facing the American military and civilians living in Germany. Namely, money, housing rent, and outright atrocious behavior of many of our "host nation" citizens. For the past six weeks I have talked, listened, and shared with many the common family crises, and inabilities to organize a way of coping with what has been handed out to us. I am of a totally nonpolitical leaning, and confine this letter to my outright compassion and outrage of injustice to my fellow Americans in Germany—and we are all in the same boat. I feel the time has come for each of us to rock that boat and try to help ourselves. Shaking your head, complaining to each other, and hating the insecurity of what the next paycheck will cover, will do no one a damn bit of good. You must realize that the people at home are facing what they believe to be hard times too—and many at home may even have the age-old belief that we over here are having a "free ride" of glamour, travel, bargains in purchases, etc. OK, maybe we can't get everyone behind us to fight our problems here, but we can darn well shout out loud and clear, and bombard the strategic offices at home and over here until we are heard and helped. There is a great strength in numbers, you know. If you are one who doesn't want to bother, or you are secure with your family in "free housing" and you don't feel the heat of your deflated dollar, or you feel that you aren't your brother's keeper, turn this page now—you don't belong with us, and that's your prerogative. It is also not my intention to fake an intelligence that's able to formulate plans that would bring about positive results to better our lot. Before I go further, I would like to quote a part of a front page article published in the Sunday Express (British) on July 1, 1973 written by Peter Vane:

"A stiff 'give-us-more-cash' demand to help keep the British Army on the Rhine is likely to be made to the West German government after Friday's upward revaluation of the mark. NATO experts estimated that the 5½ per cent change in the mark could add at least 10 million pounds to the 200 million it is costing Britain this year to help defend W. Germany. Part of the added expense will stem from the fact that the Army does not wish the troops to suffer . . ."

How quickly the British arise to the defense of their military. Especially the fact that they're getting the ball rolling and will

surely have results by the time the mark will be revalued again. The British news also reported that West German financial circles have forecasted the revaluation of the mark again by three and five per cent in a few months.

If our government would "lay it on the line" in order to help us, it would not only reinstate our pride and sense of security, but also erase the doubts and fears of "raw deals" that prey on the minds of many potential and existing "lifers."

We are the victims, not the cause of these things. Why should we be punished? Because of what we are—the families and members dedicated to the protection of our country, we should demand and get the best deal and support that our government can and must give out. I'm sure that it is beyond the imagination of almost every country of the world to visualize America without great military strength and support; a nightmare that could lead the world to only God knows where.

We shouldn't expect to get anything more than priority evaluation and adjustment of our paychecks to balance with the mark. How many of us over here are being forced to send our wives and children home, with borrowed money, because of inadequate dollars in the paycheck to cover the rent and bills we must pay in marks? How many of us have to write home to the folks for the money to send the wife and junior home because they were "non supported" in the first place? Why can't we live normal family lives? Separations because of war are sacrifices many of us have made once or even several times—but these are peaceful times here! So why do we have to put our families on the sacrificial block of inflation, scandal, and kid-glove treatment of our "host nations." The West German government repeats over and over that we are needed for their national security. Fine! Let them start paying for it. They have had their noses wiped too long and have grown into big boys. Let them start repaying their benefactors and guardians with something more than keys to cities, friendship-for-a-day beer busts and festivals. These are very nice and enjoyable, but you can't eat them. I am sick of being told that we are "guests" over here. If that is true, it's high time the German government provide for its guests—in politeness, money, housing. I feel that our government must become acutely aware of its serious responsibilities to us, and extract strong agreements with West Germany to do their part in providing us with adequate housing, or at least stop the economy landlords from placing unreal rents on houses we are forced to take. Is there such a thing as a house that rents to us for the same price a German could have it? We can't wait any longer. We must help ourselves and start to regain a sense of pride, honesty and fair play. We must not be further forced into the mental image of a dog running with his tail between his legs. "It's not the size of the dog in the fight—it's the size of the fight in the dog." You can do your part, if you care enough, by writing your own letter, or copying this and sending it today to:

(1) Senator Stuart Symington, chairman, Senate Armed Forces Committee, Washington, D.C.

(2) James R. Schlesinger, Secretary of Defense, Washington, D.C.

(3) Rep. Gerald R. Ford, House Minority Leader, Washington, D.C.

Then set Sept. 3 (Labor Day) as the day for bombarding Senator Symington with night letters or telegrams requesting word of results attained.

My family, my people, and my country are the most important elements in my life. Take this letter as you will. I can only state that I have written it with the sole desire to help all of us over here—to help ourselves.

PATRICIA BRUG,
Housewife in Germany.

[From the Stars and Strips, July 30, 1973]

SICK DOLLAR AND GI PROBLEMS AT FULDA

(By Ed Reavis)

FULDA, GERMANY.—Dollar leukemia! U.S. servicemen and civilians all over Germany are suffering from the effects of the sinking dollar and striding inflation.

Economy buying has shriveled and inflation has hit the PX and commissary where wages for local national employes and the price of locally purchased food-stuffs and goods constantly rises.

Given this situation, it is no surprise that dissatisfaction is spreading among the troops.

Commanders all over Germany are seeking ways to alleviate the effects of the financial squeeze on their men.

One of the most extraordinary steps has been initiated by Col. Robert L. Schweitzer, 11th Armed Cav CO in Fulda.

Schweitzer has appealed to the landlords who rent housing to his men in Fulda, the Wasserkuppe, Bad Kissingen and Bad Hersfeld to lower the rents by 10 per cent wherever possible. At the same time he went to the German press, the lord mayor and mayor of the city of Fulda and even the archbishop to enlist their support.

"We don't want pity or alms," Schweitzer said. "On the contrary, we just ask understanding for our present situation."

The present situation, according to Schweitzer, and backed up by Lt. Robert Hanssen of the housing referral office in Fulda, is that Americans are paying more for their economy housing than a German would pay for equivalent quarters. The Fulda variation on this theme is that basic rents are just about equal to German rents, but utility charges are extremely high.

WO William P. Shobe Jr., a helicopter pilot with the 11th Armd Cav, is here with his wife and two children.

"My wife and I both speak German, and as far as relations with the people go, they are great. I do know, from talking to the people in the village, that a German would not pay as much as I am for the same place."

Shobe pays $250 for a three-bedroom place. His housing allowance is $171.40, which means he adds almost $80 per month out of his pocket to pay his rent.

Shobe said he thought the appeal to the landlords is fair. "The landlords are getting more than their share from us."

Schweitzer's appeal has had some impressive resonance. Dr. Adolf Bolte, archbishop of Fulda, addressed the problem in a Sunday sermon, and Otto Geffert, deacon of the Church Region of Fulda, has also addressed the Protestant community on the problem. The mayor has promised support in the local press and the two German national TV stations have done features on the housing problem and Schweitzer's appeal.

In his appeal, Schweitzer, a veteran of the civil rights movement and the Vietnam war, recalled the social encyclicals of the Popes, letters which state that every human being has the moral right to living space and social justice.

"I was able to find sympathy on the side of the church and the local Social Democrats with the concept of social justice," Schweitzer said.

Schweitzer outlined the situation:

—Families of 31 soldiers in Fulda have returned to the United States because of the dollar devaluation, and another 15 are preparing to follow.

—Some soldiers have resorted to scavenging furniture from the refuse thrown out by the Germans. (Low-ranking GIs are not loaned family housing furniture.)

Morale problems are arising because of families who are returning to the United States.

"These married men," Schweitzer continued, "are some of my best fighting troops. I don't want them worrying about their families going back to the Sates because it will make them angry at me and their jobs."

Schweitzer then cited the additional problem of trying to house his men in the already overcrowded barracks if they decide to come in from the economy.

Schweitzer claims that although they have just begun the campaign to lower rents, he is already finding positive reaction in the form of higher morale, even among soldiers in the barracks who identify with the low-ranking soldier on the economy.

Pvt. Cecil McPherron pulls duty on a border outpost. He and his wife enjoyed being in Germany, but the rent costs, he said, are discouraging. He pays 320 marks for a small, two-room flat in Fulda and said every month it gets harder to pay. He said he hopes he won't have to send his wife back before he rotates.

Spec. 5 Robert Locklear said he thought coming to Germany was a good deal until the devaluation started taking the fun out of it.

Lt. John McKay, on duty at the Fulda outpost, said he now spends one-third of his salary for rent.

Sgt. David King, sitting in his crowded room in the barracks, said he couldn't make it anymore. He sent his wife back to the States in March.

Spec. 4 Dennis G. Hackett lives on the economy with his wife, Helen, and 18-month-old Jessica. They pay an average of 400 marks a month with utilities. His wife's allotment is $120, which they have to supplement out of his salary to come up with rent money. Helen works at the service club, but this adds babysitter and transportation expenses. Mrs. Hackett has started packing her belongings. If some kind of aid is not in the offing, she will leave Germany.

The Hackett's plight is a good example of that of the low-ranking servicemen. If they want to leave, they have to pay their own way. They can ship only 250 pounds of household goods when the husband rotates. Mrs. Hackett is vociferous about the situation.

"You know that saying about the Army taking care of its own? Well, they know where they can shove that. They won't even let me go home on emergency leave at government expense. They don't recognize me, they said, because my husband is an E4.

"Well, if they don't recognize me they are not recognizing my husband. What do you think this Army would be like without the E4s? Do you know what this place would be like if we wives went back to the States? They'd be pregnant German girls and fights all over the place. If my husband hadn't kept me back, I'd have been picketing Downs Barracks long ago."

When asked if she thought the colonel's program had any chance of success, Mrs. Hackett said, "You know, I really don't expect anything to come of all this. Good, NBC was here, then the First German TV program and Stars and Stripes, but I really don't expect a thing to be done by the Germans. What I really want is for the American government to do something about all this. And if I lose, I only hope that others will gain from my protest."

August Moeller is one landlord who does think the colonel has morality on his side. Moeller, a woodcutter who also makes those "honey wagons" for the PX, said when he read of the plight of the serviceman, he dropped the rents of his two apartments by 10 per cent. Moeller said it was the second time he had done this because he and his wife Elsa thought they were taking too much.

"We've been renting to Americans for years and I have never had a complaint against them. I know there are some landlords that have had bad experiences but I would say that that is a rare case."

When asked if he thought there was any chance of the plan succeeding, Moeller said, "I really don't know. Certainly the Americans

deserve our help but it's hard to tell how people will react when you want to take money out of their pockets."

The housing referral office in Fulda is well acquainted with the market and the landlords. Did they feel the plan had a chance?

"I'm not allowed to talk to the press," said Frau Irmingard Fryer, an employe of the office and a person described by the Fulda information office as having the best knowledge of the landlords' feelings on the topic.

She referred all questions to Hanssen who said the idea was not utopian and that with the present availability of apartments—there are 80 units on the housing office list waiting for occupants—it is possible to put some pressure on the landlords to drop their prices.

Schweitzer is optimistic about the immediate future, and there are indications of success in the Bad Hersfeld area that would support his optimism.

There was a consensus among Germans interviewed that in the past, Americans drove up the prices of quarters when Germans could hardly afford to compete. They believed Americans came first for choice apartments or houses when the dollar was worth more than four marks, and Americans often outbid the German by offering landlords more money.

At the same time, they said, while a majority of the U.S. soldiers did not ask to come here, they are watching the border to protect not only America, but Germany also, and said they've always been there when needed, providing helicopters for emergencies; building playgrounds, swimming pools and lakes; and giving concerts for communities.

One German noted that an American may be shocked at paying one-third of his salary or more for rent, but said Germans have been paying that much since the war ended.

A periodical lowering of rents, they agreed, is a small price to pay for what may even be the beginning of the disintegration of NATO. Unfortunately, none of those expressing this view was a landlord.

DEMORALIZED GI'S

After having read the recent article relating to an interview with Mr. Joseph Luns, NATO secretary, I felt compelled to write this letter. Luns stated that "United States would 'demoralize' Europe if it withdrew troops unilaterally from the continent." Apparently he is not aware of the demoralization that has been occurring among the U.S. forces stationed in Europe, particularly West Germany, frequently since February 1973. This demoralization is occurring because of the devaluation of the U.S. dollar, which has greatly reduced the standard of living for U.S. forces to that of second class citizens. Little or no financial relief has been given to these forces.

Luns said, "Europe can do something" to help offset U.S. defense costs in Europe, "but it cannot do too much." For starters, how about lower rents and reduced automobile insurance rates. These are two items that affect every service family living on the economy and every serviceman owning an automobile.

Most personnel in Germany took it on the chin when the dollar was officially devalued 10 per cent in February 1973. This can no longer be taken on the chin. The U.S. forces must now unite with an extensive letter campaign to Congress, relatives, and friends. The plight of the U.S. forces living on the economy and driving automobiles has to be broadcast to all levels of government. In two years the U.S. dollar has been devalued nearly 35 per cent and it is still going down. COLA and HOLA assistance is 18 months behind the current worth of the dollar. We can send our wives and children home, we can talk about our problem, but nothing is going to be done about it if we don't spend a few minutes of our time to sit down and write a letter—today!

T. SGT. ROBERT W. KNAPP.
WASSERKUPPE, GERMANY.

[From the Stars and Stripes, July 24, 1973]

LETTERS TO THE EDITOR—SACRIFICE TO DEVALUATION

Why are Americans stationed in Europe being sacrificed? Why do we have to carry the burden of the dollar devaluation? Isn't America strong enough or have guts enough to help all her people?

Why can't American bases be self-sustaining? For example, this post has numerous German employees and other employees who do not speak English or German. They are paid in German currency. More and more dollars are going for their salaries. Why can't the government put a dollar limit to the salaries that are paid? Why can't Americans be hired for these positions? Why can't the United States put a limit on how much they can pay? Salaries should be set in American dollars. The employee can take the position or find another job. I realize there are agreements, pacts, treaties, etc. That is fine for them but what protection do we have?

The dollar is still dropping. Soon it will be two marks to the dollar. Many men in Europe are E4 and below. They have their families here. It will soon be impossible for them to keep their families here. That means wives and children go home and dad goes back to the Drug Den (the barracks). Gee, the prices of drugs are going up too. What will the poor GIs do? Steal?

What kind of morale will the Army have with this type of a situation? Is this a hardship tour? What about overseas pay?

It is too expensive to buy products on the German economy and prices are also going up in the PX, commissary and other base facilities. What can we do? We don't have a chance. Everythings going up except our pay.

When listening to AFN radio I hear messages encouraging travel in Germany and descriptions of the wonderful activities in which I can participate. What a joke! I have recently purchased a used car but now I can't afford insurance. Car insurance must be paid in marks, therefore, it is continually more expensive to buy insurance. The price goes up but there are no increased benefits to the insured.

It looks like more and more time in the barracks and less travel for me. Big deal, a three-day pass and I can't afford to go anywhere.

Perhaps this will give you an idea of the situation here. Do you have an answer to my questions? True, I am only but one of many who are facing the same problems and asking the same questions.

I am doing my duty to God and my country. I am giving three years of my life to serve my country. Why am I being punished for this? Where do we go from here?

THOMAS A. COMPTON JR.,
Heilbronn, Germany.

Right now the Congress of the United States is discussing the reduction of forces in Germany by about 50 per cent. Aside from the very complicated aspects of the question that also requires great insights into the future political, economic and military situation, there are some very practical thoughts to be considered.

The American military in Germany is an unwanted wart on the German society. We live in ghettoes that attract hucksters, gypartists, prostitutes, sleazy bars and every possible gimmick to separate the American from his money. Not a day goes by when we don't read of an American being busted for drugs, committing serious crimes, committing suicide, causing slaughter on the roads, refused entrance into a German establishment for some real or imaginary possibility of a disturbance, and creating unrest and tragedies among our families. If we live on the economy we pay double for housing with practically no protection from the American or German governments.

This taking advantage of Americans as a group is apparent in other areas also. We have watched our young soldiers send their wives and children home because the value of the American dollar has plummeted drastically. This is a special type of inflation peculiar to the military in Germany and the American and German governments have not realistically come to grips with this problem. We have seen air charter agencies like Davis, Shoftour, and United Services which cater exclusively to military related personnel having their passengers refused landing rights at Frankfurt. This is an unfriendly and insulting harassment of USAREUR and USAFE related people.

While on the surface it might seem we are given some concessions by the Bonn government, just consider the rentals our government pays, the monies for military maneuver damage, the cost of phones, utilities, the hiring of LNs with their years of vested interests.

When military experts talk to one another, they might make a case out of keeping the status quo in Germany. But speak to the soldiers and their dependents and they think our huge presence here in Germany is an anachronism that continues to make patsies out of those big-hearted and generous Americans. That Germany needs our presence here for the economic advantages it brings to its economy makes sense. That our present strength in Germany is needed to restrain the hungry Russian Bear is a bit hard to swallow in 1973.

TONY LUTZ,
Baumholder, Germany.

Help! That's the first word out of the mouths of many young GIs living on the economy these days. As one of them, I would like to say just a little more.

Since the dollar devaluation in February, the exchange rate has gone down, down, down. With the rate now hovering near the 2.30 mark level, many married soldiers not eligible for housing will probably have to send their wives and families back home because they just can't afford to pay rent any more. Is there any help in sight for this problem? Well, we did get a $7 increase in station housing allowance, but how much help is that when rent has increased as much as $75 in some cases? Also, as a result of the survey now being taken, there may be another increase; but no one knows how much or when.

We need help now! If the U.S. had the gall to take a hard stand against the Western European countries, the dollar wouldn't be so weak. Our economy is not worse off than most European countries, nor is "Watergate" any worse than the scandals going on in the British and West German governments. Yet the policy makers in Washington sit back and say they are pleased with the present monetary situation because they are afraid of hurting some feelings in Europe if they push too hard. Well, they sure have hurt some feelings—mine—and I am sure many other people living on the economy feel the same as I do.

It seems that after World War II Europe was glad to have dollars. Now all the countries are acting like the dollar carries a plague. They don't want to touch it. France wants to have the dollar backed by gold again, which would make it fall even lower because gold prices are so high. But, if France would pay back the gold borrowed from the U.S. during the war, it wouldn't be so bad.

It is my opinion that the U.S. should take a firm stand to support the dollar. If some-

thing cannot be worked out between Washington and the Western European countries, then I think the U.S. should get its troops out just as fast as possible. If we are to be a part of NATO, then there should be some support from the other members instead of them trying their darndest to wreck the dollar.

I have written my Congressman concerning the present situation here in Europe. I urge everyone living on the economy to do the same. Maybe then, our lawmakers will realize that everyone isn't happy about it and that something should be done immediately.

Spec. 4 RICHARD G. KELLER,
Frankfurt, Germany.

SUPPORT YOUR LOCAL DOLLAR

No matter what the "experts" say about the value of the dollar, the effect is the same. We, the consumer, are paying more for everything while living outside the United States. Economists don't know why the dollar is undervalued, others say things will be better in a year or so, but the question is—what to do in the meantime while waiting for "someone" to do something about the situation.

I would like to make a few suggestions about consumer purchases in Germany which may make things more equitable for all of us sooner. I'm sure there will not be a bad effect on the German economy because Helmut Schmidt, West German finance minister, stated he didn't know why the dollar should be affected since the mark was revalued against European currencies. So, if things go the other way we can say, "we don't know either!"

For starters: discontinue the sales of foreign products in the clubs, exchanges, audio clubs and the like; replace foreign nationals working in appropriated and nonappropriated positions by American personnel, such as dependents and military personnel; and reduce purchases on the economy.

We, the consumers, can make a positive contribution toward the value of the dollar by showing that we can live comfortably by buying the same consumer items as our peers in the United States, without the consumption of large quantities of European products.

To determine if we, the consumers, really want to protect the dollar, I suggest the month of September 1973 be declared "Buy American" month. If we show an overwhelming confidence in American products, we may get some relief in the form of constant or lower prices. If on the other hand, we ignore the problem, then we will have to live with the consequences.

JOHN J. CRAMSEY,
Frankfurt, Germany.

[From the Baltimore Sun, July 12, 1973]

SCHLESINGER OPEN TO TROOP CUT

(By Charles W. Corddry)

WASHINGTON.—James R. Schlesinger, the Secretary of Defense, indicated under congressional prodding yesterday that a 5 per cent reduction of American troops in Europe—about 15,000 men—would not be militarily damaging to the Western alliance.

In testimony before the House Foreign Affairs Committee, the defense chief steadfastly backed the administration's position against unilateral troop withdrawals at a time when negotiations are scheduled for October with Warsaw Pact countries on mutual force reductions in Central Europe.

Yet he exhibited somewhat more flexibility on the matter of U.S. military requirements in the North Atlantic alliance than had Kenneth Rush, the deputy Secretary of State, who told the committee Tuesday a cut even of 1,000 men might start an unravelling of the alliance.

Mr. Schlesinger told receptive committee members also that Europe must get over its tendency to "rely unduly" on America for defense. He said at one point that Europe has a "sense of inferiority" about its own ability to build defenses against the Warsaw Pact forces, which heightened its reliance on the United States. Substantial American cuts, therefore, would raise questions in the European countries at this point about their ability to withstand political pressures from the East.

"Substantial" cuts, as the term is being used now in Congress, apparently would range from 50,000 to 150,000 of the approximately 300,000 U.S. troops now in Europe.

Near the end of the three-hour session yesterday, Representative Clement J. Zablocki (D., Wis.), the acting committee chairman, asked Mr. Schlesinger what he would think of a "moderate" cut and how he would define it.

He would prefer it to a "substantial" cut, the secretary replied, and would define it as "no more than, say, 5 per cent at a maximum."

He added that he thought there should be no cuts now in the face of the coming negotiations. Asked then whether it would be "responsible" for the committee to approve a resolution calling for a 5 per cent cut toward the end of this year, if negotiations were going well, Mr. Schlesinger replied that such a measure could harm negotiations psychologically, "though not the military substance."

Later he told reporters he regarded these as theoretical questions.

In both his prepared statement and his answers to committee questions, however, Mr. Schlesinger said that the present level of American forces in Europe is not "immutable."

"We ought to determine the size of our forces in relation to the opposing forces, taking into full account the capabilities of our allies," he said.

Another possible straw in the wind from the secretary, who had something of a reputation as an economizer when he served in the budget bureau early in this administration, was a statement that he will be looking for changes in present troop-support arrangements "with the hope of sharing more equitably with our allies certain of the support and logistics responsibilities now borne by the United States."

On purely military grounds that could point to some cut in U.S. support troops.

Mr. Schlesinger was adamant, however, against making a substantial cut such as he was questioned about—50,000 to 150,000 men.

That would "destroy the hopes that we have for a stalwart conventional defense" in Europe, he said, and the alternative would be "an earlier recourse to nuclear weapons" if war broke out.

The secretary, together with Gen. Andrew J. Goodpaster, Supreme Allied Commander in Europe, and Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, warned the congressmen that Russia's apparent interest in detente is not matched by any reduction of its military power. They said the contrary is true.

[From the Washington Star-News, July 15, 1973]

DOUBTS OF NATO ALLIES TARNISH NUCLEAR SHIELD

(By John W. Finney)

Testimony published by the Joint Congressional Atomic Energy Committee discloses that there is a serious question whether some of the European allies will permit the United States to use certain nuclear weapons stationed on their soil.

The heavily censored testimony released over the weekend indicates that one of the North Atlantic Treaty allies had refused the United States permission to dig holes for hundreds of atomic demolition mines. The ally was not identified but from various references in the testimony it appeared to be West Germany.

The attitude of the ally could frustrate one of the nuclear tactics, conceived by the U.S. Army at a cost of hundreds of millions of dollars, for blocking a Soviet invasion of Western Europe.

For some years the Army has been building atomic demolition mines, which could be set off at "choke points"—such as mountain passes—along the likely invasion routes that would be used by the Soviet army.

If this tactic is to be successful, however, the holes must be dug in advance, so that the atomic demolition crews could rush in, drop the mines in "prechambered holes" and then fall back to detonate the mines.

In confirming that this concept has run into some reluctance on the part of "authorities in some areas," Maj. Gen. Edward B. Giller of the Air Force, assistant general manager for national security of the Atomic Energy Commission, complained that the unidentified ally was being "rather contradictory." On one hand, he said, the foreign authorities have permitted holes to be dug for "prechambering" conventional high explosives. But they will not publicly permit the digging of holes for nuclear weapons, although the atomic mines could be put in the conventional holes if necessary.

While the testimony did not go into the reasons for the reluctance to permit the use of the atomic mines, one possible explanation is that such nuclear explosions, because they are set off in the ground, produce considerable radioactive fallout, which would result in civilian casualties.

From the testimony it appeared that this concern about having a nuclear war fought on their territory, with resulting civilian casualties from fallout, was contributing to a reluctance by NATO allies to let the United States use other nuclear weapons stationed on their soil.

In a statement accompanying the testimony, Sen. Stuart Symington, D.-Mo., chairman of the atomic energy subcommittee, on military applications, observed: "There is a serious question as to whether some of the host countries in which these nuclear weapons are stored would consent to their actual use."

Between bombs, missiles and demolition mines, the United States has some 7,000 atomic warheads stationed in Western Europe, primarily in West Germany. While all are officially classified as "tactical," many of the warheads have an explosive power of several hundred kilotons, many times more powerful than the 20-kiloton bomb that destroyed Hiroshima. A kiloton is equal to 1,000 tons of TNT.

The military is pressing to develop and build a new generation of tactical warheads for Europe that would be more accurate and have a lower explosive yield. Giller made it clear that one reason for this military pressure was that both the allies and the Russians question whether the larger weapons would ever be used, thus vitiating the effect of the nuclear deterrent.

Giller estimated that the program would cost "a couple of billion dollars over the next 10 years."

From the testimony, it was apparent that the subcommittee members were skeptical whether the new weapons were worth the cost, would really contribute to the nuclear deterrent and would significantly reduce casualties.

The testimony was unusual in that it represented the first time that the normally secretive Joint Atomic Energy Committee has published its hearings on the atomic weapons programs.

[From the Baltimore Sun, July 23, 1973]

DEBATE AND DISCUSSION—A UNILATERAL U.S. TROOP CUT IN EUROPE

(Congress is arguing the pros and cons of withdrawing unilaterally some of the U.S. forces in Europe in advance of East-West talks on mutual cutbacks. The House Foreign Affairs Committee recently heard testimony from retired Rear Admiral Gene La Rocque, director of the Center for Defense Information, and Kenneth Rush, deputy Secretary of State. Excerpts follow:)

(By Gene La Rocque)

According to some arguments, there will never come a time when it will be possible to begin to withdraw American forces from Europe. Just now, for example, the cold war is officially over and we have entered a new era, one of negotiation not confrontation, with the Russians.

Nevertheless, it is solemnly argued that a time of relaxed tensions is just when our forces in Europe must be maintained in all their strength—in order, it is said, to preserve the new detente. Of course, if the detente were to slip and the atmosphere became less relaxed, the same people would then insist it was also the wrong time to talk about cutting the military forces.

Yet a 20 per cent cut in United States troops in Europe would leave the NATO ground forces and the Warsaw Pact forces still in rough balance, if French troops are included on the NATO side, as surely they ought to be included. And many of the Warsaw Pact ground forces are really Soviet garrison forces, who are in Europe not for aggressive use against NATO troops, but for holding on to Eastern Europe, against ever-possible rebellions and uprisings there against Soviet domination. For example, two Soviet divisions in Poland, four in Hungary and five in Czechoslovakia.

There are almost 320,000 American military in Europe, and 220,000 American military dependents. These forces are one quarter of all the general purpose forces of the United States. They provide 10 per cent of the NATO ground troops, 25 per cent of the air forces, 20 per cent of the NATO naval forces. But a lot of that is fat, and a lot of the Europeans' military effort is mere duplication of one another's forces.

Now that we have relaxation and detente and an official ending of the cold war, it is high time to look at this 25 years' military growth that seems to have built up according to Parkinson's Law.

It is said that, sure, there ought to be a reduction of those forces, but let's wait for the forthcoming discussions with the Russians, due to commence this October in Vienna, about what is called mutual and balanced forces reduction—cuts by them to match cuts by us. It sounds good. But there are grave difficulties.

It will be extremely hard to achieve *balanced* reduction of forces, because so many different sorts of units and complex weapons are involved. These discussions will be more difficult even than the SALT talks, and they seem likely to drag on for years. SALT after all was bilateral discussion; force reductions in Europe involve a large number of countries besides the U.S. and U.S.S.R.

At the end of it all, all that may be achieved is a mutual 10 per cent forces cut by NATO and the Warsaw Pact countries. This would mean that 90 per cent of present American troop strength in Europe would be frozen in position, perhaps indefinitely, perhaps "only" for another quarter century.

Such an outcome would very likely be rejected by public opinion in this country, which is now increasingly restless and dissatisfied about our military commitment in Europe. Better, therefore, a carefully thought out, well planned, phased withdrawal, than a 10 per cent cut reached only after years of talk and followed perhaps by an angry backlash and a precipitate, wholesale withdrawal of our forces that could be extremely damaging.

Rather than risk such a debacle, it would be preferable even to make a unilateral beginning with military cuts in Europe. The Russians might well respond to our example, for it is probable that they really do want to cut back their forces in Europe because of the Chinese threat. If they did respond that way, good and well. If they failed, the situation could be reassessed. . . .

This country is pledged to help defend Europe because Europe's defense is in America's own interest. It is hard to envisage an armed attack by Russia on Europe that would not involve the U.S. So it is obviously as well for the U.S. to be involved beforehand in military plans that are aimed to prevent such an attack, if possible, and beat it off successfully if it should come.

However, the chance of such an armed attack seems quite remote at present. And the Europeans *have* now built up their forces, including, in the case of Britain and France, their nuclear forces. . . .

This country will, of course, remain in NATO; and a reduction of the American military presence in Europe should leave NATO still strong.

The alternative to phased withdrawal is almost certainly *not* a stubborn continuation of the status quo, but a fierce backlash against the whole NATO concept, and a revival of old-fashioned isolationism that could involve a hasty, heedless American pullout from Europe, at the wrong time and in the worst way.

A phased withdrawal is not a denial of our NATO commitment; rather it is perhaps the only way to save NATO from being destroyed.

(By Kenneth Rush)

Historically, NATO's first function, and still its most important, has been to safeguard its members from external attack and pressure. I know that Soviet relations with its neighbors in Europe, as well as with us, have improved significantly in recent years. We welcome that improvement. But I also know that the Soviet Union is still far more powerful than any other state or group of states in Europe. I know that there is no certainty, nor can there ever be any, that its power will *never* be used to threaten the interests of the members of the NATO. Such power would be a constant political pressure on the Western European states to accommodate to Soviet policies unless it continues to be counterbalanced by NATO.

The Warsaw Pact nations see no inconsistency between negotiations to reduce tension in Europe and maintaining and strengthening their military power. Nor is there any necessary inconsistency. Soviet negotiating from strength has not impeded our search for better relations with the East. In fact, it has probably provided the only basis for Soviet policy to evolve as it has. The Eastern countries no doubt will continue to negotiate on this basis. It is important that they never have reason to expect that we would do otherwise. . . .

Unilateral reductions would . . . cripple our careful effort to negotiate reciprocal force reductions. In May, 1972, at the Moscow Summit, we and the Soviet Union agreed in principle to seek reciprocal reductions. In November of that year, the NATO allies invited the Warsaw Pact states to exploratory talks that opened shortly thereafter in January, 1973. These resulted in an important agreement on a negotiating forum and upon the negotiating procedures. Finally the President and General Secretary Brezhnev agreed during their Washington meetings that the substantive phase of the negotiations will begin on October 30 of this year.

We are now poised to begin a series of negotiations that could be among the most portentous of the post-war era.

It would be unthinkable to jeopardize these negotiations by unilateral action. Such a step would make almost inconceivable the conduct of reciprocal negotiations. The very likelihood of such a decision would remove the incentive of the Warsaw Pact states to negotiate at all.

Moreover, a unilateral American troop reduction would seriously divide the NATO Alliance. Since the U.S. would have reduced without regard to the military consequences, our allies would be under political pressure from their parliaments to make comparable unilateral reductions. The entire fabric of our common decision-making could be torn apart. And while the governments would probably oppose any further reductions—reciprocal or not—the process of unraveling the peacetime defense of the West would be underway and would have been begun by the United States itself.

Under such circumstances, our every effort would be needed to hold NATO together and to restore some degree of its effectiveness.

Our unilateral reductions would unsettle the entire military situation in Europe to our detriment. Who among us can be confident that the discovery of a weakened and divided West would not reawaken the appetite of those in the East whose hope for the control of all Europe must still survive? Who would feel America's interests would be safeguarded once accommodation rather than independence became the guiding rule of Europe's foreign policy?

We do not yet know precisely where the effort to achieve mutual reductions will eventually lead. Like SALT, it promises to be a process that will yield not only substantial military results but a continuing political discourse that could well be valuable to us. In SALT, our candid discussions with the Soviet Union did much to dispel common misconceptions. That same possibility lies before us in MBFR. I urge that none of us underestimate the contribution that it could make to our security and to reduced international tensions.

But the promising prospects of these momentous negotiations would be destroyed by a unilateral decision of the United States to reduce its NATO forces. Such a pullout would disrupt NATO, unsettle the existing East-West equilibrium and abruptly halt the process of reciprocal force reduction. . . .

Equally important, our efforts with our allies for more equitable burden-sharing trade and monetary arrangements are also underway. Programs to improve NATO's defense and to provide a more cost-conscious and efficient posture are also in train.

Nor need we feel compelled by our budget or balance of payments to withdraw our troops from the area where they are most valuable to a distant base in the United States. The improvement in our over-all balance of payments that is already beginning to show can be expected greatly to diminish this pressure in the months ahead.

It is for these essential reasons that my colleagues and I believe that unilateral troop reductions in Western Europe would be contrary to the interests of the American people and that we ask your continued support for our Atlantic defense policy.

STATEMENT OF SENATOR MIKE MANSFIELD (D., MONT.) BEFORE THE SUBCOMMITTEE ON ARMS CONTROL, INTERNATIONAL LAW AND ORGANIZATION, JULY 25, 1973

Mr. Chairman, I want to begin by thanking you for the invitation to address this Committee on the question of U.S. forces in Europe—as well as on the broader context in which we must place our consideration, the question of U.S. military forces around the world.

The United States currently has stationed *on* foreign soil over 500,000 military person-

nel.[1] In addition, over 100,000 military personnel are afloat off foreign shores.[2] Almost 30% of our military forces are stationed beyond our homeland. Not since the days of the British Empire or probably more truly, the Roman Empire, have so many been required to "maintain the peace" away from their shores.*

I believe it is important to view the question in the broad context of U.S. forces stationed around the world. It has been painfully evident and generally agreed in the United States Senate for at least the last several years that the United States is badly over-extended abroad.

We must not forget the lesson of the tragic war in Vietnam; for that tragedy will only be compounded if we refuse to learn and guide our actions accordingly.

The National Commitments Resolution passed overwhelmingly by the Senate was significant evidence of the prevailing sentiment in the Senate.[3] The War Powers legislation passed overwhelmingly by both Houses of Congress is another significant step.[4]

But these vital actions reform and refine our institutional mechanisms. They serve notice of the Congressional threshold of tolerance. They demonstrate a Congressional attitude that seeks a greater share of responsibility. But these constructive changes are not enough. We must accept the realization that our commitments and policies are not always made in formal and traditional ways. In fact, some policies seem to "just happen."

The presence of so many U.S. forces on foreign soil is such a policy. Their presence presumes a policy that heavily favors the military option. The War Powers legislation expresses Congressional dissent to that emphasis. But *the fundamental difficulty in discerning semblance to America's policy abroad is that the commitment and level of U.S. forces abroad has determined our policy rather than our policy determining the level of U.S. forces abroad.* The intractability of executive branch attitude on force levels abroad during the past 25 years can only be explained by the incapacity of the policy-makers to perceive that the troops on foreign soil was our policy and policy-makers were really articulating after-the-fact rationalizations. Members of the Executive Branch, whether in office for two weeks, two months, two years or two decades, have had the *same theme,* and it is always one that the world will fall if any of our soldiers return home.

But yearning to return home shall become more compelling with each passing month. The impoundment by this Administration of $12 billion for domestic needs; the closing of many U.S. military bases as an economy measure, putting many Americans out of work; the devaluation of the dollar by more than 25% over the past two years; all will join in marshalling attention to what heretofore has been considered an issue that should be left to the "experts." I believe the arguments this year will be heard.

As I stated above, the plain fact is that the United States stations over 600,000 military forces outside the United States and its territories and possessions. We maintain over 2,000 bases and installations on foreign soil.[5] There are over 314,000 dependents stationed overseas accompanying these forces.[6] The Defense Department *employs* directly or indirectly approximately 173,000 foreign nationals at these bases overseas to support these U.S. forces abroad.[7] These are not reasons for bringing our troops home, but they are facts that should make America listen to the reasons.

The most detailed focus can be obtained on Europe. At least in 1950 the Congress was asked to participate in that decision of sending troops to that Continent. But equally forceful questions can be raised as well to the U.S. troop commitments in Thailand—now about 45,000; or in Okinawa, about 40,000; or Korea, about 42,000; or Taiwan, about 8,000; or the Philippines, about 15,000; or Japan, about 18,000; or even Bermuda where about 1,000 men defend our national interests.[8]

Let us look at Europe when NATO was first structured. Let us look at the realities that faced this Nation at that time which precipitated the commitment of four divisions to Europe. Let us look at the premises upon which the Congress assented to this commitment of these divisions and the representations that were made at that time about the permanence of such a commitment of manpower abroad. Then let us look at Europe and the U.S. today, 28 years after the War, 23 years after the initial stationing of these divisions to NATO.

EUROPE AFTER WORLD WAR II

World War II left Western Europe in ruins. The general view in the West was that the communist monolith under Stalin had the domination of the entire planet as its goal. The United States moved swiftly with the most massive reconstruction effort ever attempted with its Marshall Plan—an effort has proven successful beyond expectations. The institutions of Europe, political, economic as well as military, were in shambles. With these weakened conditions in Europe combined with the common perception of the threat of the hordes from the East[9] a strong military presence in Western Europe to complement the economic effort was rational. But the North Atlantic Treaty itself did not commit U.S. troops to the European continent for deterrence. In fact, the treaty itself made no commitment of U.S. ground troops to Europe. It was not until 1951 that the decision was made to send four land divisions to Europe and Congressional assent solicited to this significant commitment of troops.

The history of proceedings before the Congress are very revealing.

Secretary Marshall claimed at that time that there was nothing magical about four divisions. The full level was selected based upon a judgment of our resources and their availability. If only the same standard were to be applied today. And why should it not be applied?[10]

But even more revealing is the exchange that Senator Hickenlooper had with Secretary Acheson when it was made clear by Secretary Acheson that the original NATO Treaty envisioned no troops stationed in Europe by the United States and that it was clear that each signatory to the NATO Treaty would unilaterally make its own determination of its contribution of military equipment, manpower and facilities.[11] In addition, Secretary Acheson envisioned the return of troops subsequently sent if the situation got better.

But what conditions were envisioned in 1951 that initially warranted the troops to go to Europe and what thorny questions should be resolved for us to expect their return. Senator Smith of New Jersey sought this information from General Bradley in 1951 and General Bradley felt the making of a peace treaty with Germany and the state of preparedness of the other nations of Europe as well as the aggressive intentions of the East were the chief irritants that justified U.S. action.[12]

These were all valid concerns in 1951. In addition, it was a time when the Korean War was underway; China was an active enemy; the Soviets had come of nuclear age; the South East European flank was still threatened; the economies of Western Europe were just back on their feet; political instability was prevalent in most West European countries. Strong men replaced strong institutions and provided the cohesion for Western Europe. But even then the questions were raised: Should the U.S. commit four divisions to Europe as a deterrent to another European war at least until Europe is ready to assume its own defenses.

The Congress assented to that request and the American troops returned to Europe to meet the threat that was perceived at that time. However real the threat then, has it changed since that time?

EUROPE SINCE THE 1950'S

When U.S. troops were intially committed to the European continent, total GNP of all European NATO countries was $46.9 billion compared to $831.9 billion for 1972.[13] The era of confrontation was high and the national institutions were weak. Interrelationships were virtually non-existent. Let us look at and contrast the economic exchange:

[In millions]

	1951	1972
U.S. imports from USSR	$27.4	$95.5
U.S. exports to USSR	0.1	546.7
U.S. imports from Eastern Europe	63.8	320.1
U.S. exports to Eastern Europe	2.8	818.2

The total exports from all NATO countries to the USSR and Eastern Europe in 1972 amounted to $9.89 billion. The imports from the USSR and Eastern Europe to NATO countries totaled $8.67 billion.[14] In this one area alone of trade between the blocs, the most dramatic change in climate must be recognized.

But even more significant than evaluating not only the strength of Western Europe and appreciating the strong trade flow between East and West is the great number of events since 1963 that manifest as well as significantly contribute to the lessening of tensions between East and West. I have selected eighty-two events I consider significant since 1963.[15] They range from the hot line to the Nuclear Test Ban to the Consular Convention to the Non-proliferation Treaty to the treaty normalizing relations between Germany and Poland; to the Soviet-West German agreement on consulates; to the German treaties with Soviet Union; to the SALT treaty; to the signing of the treaty on relations between East and West Germany. But to many the threat of an all-out conventional war with the hordes from the East remains the same. Rigidity affects not only the rhetoric but the policy. General Eisenhower testifying in 1951 about Congressional responsibility in the determination and the evolution of the level of U.S. troops in Europe said:

"I do think that Congress ought to see a respectable, reasonable approach, and the second they see anything to be, let's say, cockeyed and crazy, to get into the thing with both feet."[16]

Well, Mr. Chairman, I think the time has come when Congress must recognize that in the words of General Eisenhower, something is cockeyed about U.S. troops stationed abroad. President Eisenhower later recognized that change was justified. He stated in 1963 that one U.S. division would be sufficient to fulfill our commitment to NATO.[17]

It is evident from these indicia of engagement with the Soviet Union and Eastern Europe that the tension that existed in the early '50's has changed significantly. Further movement has been proposed between East and West. As President Nixon stated to a Joint Session of the Congress on June 1, 1972:

"By forming habits of cooperation and strengthening institutional ties in areas of peaceful enterprise, these four agreements (Moscow summit, May 1972) to which I have referred will create on both sides a steadily growing vested interest in the maintenance of good relations between our two countries.

"Expanded United States-Soviet trade will also yield advantages to both of our nations. When the two largest economies in the world start trading with each other on a much larger scale, living standards in both nations will rise and the stake which both have in peace will increase."

It is time that the U.S. recognized the existence of its own policy toward the East.

Footnotes at end of article.

The policy of this government should be consistent, not one of engagement with the Soviet Union in trade and cultural exchange and confrontation in military matters. There should be but one barometer by which this government guides its actions toward the East.

But we have many barometers that provide such different readings for the same phenomenon. This dual standard for rationalizing our policies vis-a-vis the Eastern bloc cannot withstand thoughtful focus. If our policy toward the East is predicated upon a desire to open markets and develop a mutual interdependency of East and West upon each other, that policy will yield benefits beyond the economic sphere as they have with increased cultural and educational exchanges. It is a natural evolution of the events of the past decade. But in the military sphere—in the NATO structure—what remains is a stale rigidity; a resort to old rationalizations from bygone years.

But the double standard is not new, even within our own Alliance. Our European allies have permitted themselves to adapt to the changing mood between East and West. Not only does France withdraw all its forces from NATO—a measure I do not propose for the U.S. to follow—but Canada reduces her military forces substantially. Other NATO nations have in recent years come far shorter of target force levels to NATO than the U.S; in fact, the U.S. has been the most faithful burden-sharer over the history of the Alliance. Just two weeks ago, Secretary Schlesinger stated that the U.S. is doing more than its fair share in Europe.[18] But still the U.S. cannot take the unilateral action clearly called for in the Treaty—the unilateral action heretofore clearly contemplated by all the Treaty partners. Prior consultation would be ample but the decision would be unilateral.[19]

The time has come for the United States to realize that tensions have eased between East and West—and that this relaxation is a healthy and desirble change.

The time has come to set aside the rhetoric of the Cold War used to justify a *status quo* of military involvement around the world.

The time has come to recognize action that is long overdue, and to prevent deferral of that action under a cloak of multinational negotiations that could take a decade or longer to recommend less than what is justified today.

It is time now to respond to the spirit of detente, to the success of the Marshall Plan and the current economic vitality of Europe, to respond to the realities of the '70's, to respond more fully to the needs of its own people at home.

FLEXIBLE RESPONSE

So the absurdity of the U.S.-NATO posture for a long war in Europe is indicative of the staleness of thought that has accompanied the American military poistion in the Atlantic Alliance.

While I have no intention of going into detailed arguments of a military character, there are a few points which I believe are directly relative to our consideration of the appropriate levels of U.S. forces in Europe. The main focus of these arguments is the so-called "flexible response" theory. This policy was advanced early in 1965 by the United States but it was only formally adopted by NATO in 1967. I certainly have no quarrel with any policy which seeks to avoid automatic resort to nuclear war. And flexible response is a policy that should provide an expanded pause period before nuclear weapons are resorted to on either side.

Unfortunately, however, "flexible response" has been interpreted as a reason to prepare for a full-scale conventional war of the World War II variety. But is it again a case of the words replacing a thoughtful policy; of reducing the choices of NATO to either an immediate nuclear war or a prolonged and exclusively conventional war? Both are extremely unlikely.

The "Economist", one of the more conservative journals on European affairs, wrote on September 16, 1972:

"The heart of the matter is that most people believe that the present allied forces in Western Europe, including the present American contingent, would not be able to defend themselves for more than a week without using nuclear weapons and perhaps for no more than two or three days. Removal of half the American contingent would probably reduce that to a maximum of four days and a minimum of one unless the Russians reduce their own army proportionately or the West Europeans are able to make up the difference."

So the doctrine of flexible response is most constructive in extending the pause period before any confrontation in Europe turns into a nuclear holocaust. As the "Economist" noted, a week is the maximum pause period that any European really feels the NATO structure could undertake. This is basic realism. It is public knowledge that over 7,000 tactical nuclear weapons are in position in Western Europe[20] some of them reported very near the frontier. In view of this wide proliferation of nuclear warheads in Europe and some so near the frontier, it is hard for me to envision any serious conventional war scenario that doesn't go nuclear in less than two days. Our "tactical" nuclear weapons will be either "captured" or "detonated."

The "hot line" was installed in Washington and Moscow to permit wise use of the pause period. If a full-scale conventional war is the NATO strategy—then all the nuclear weapons—whether called tactical or strategic—should be removed far to the rear where there might then remain the option of not using these weapons.

It is a total inconsistency to have tactical nuclear weapons—some of them anchored into the ground near the frontier and to be preparing for a sixty-ninety day conventional war of the World War II variety in Europe.

But still it is our premise that the American forces must be structured for a long war in Europe. Supply and logistic levels of American troops in Europe are for sixty-ninety days, putting an added burden on manpower and supplies well beyond the realm for reason.[21]

But even more significant is the European reaction to any removal of U.S. troops from the Continent. It is an accepted axiom that the Europeans would follow suit and reduce their conventional forces as well.[22]

What is the threat, then, that requires so many U.S. forces on the Continent? If there is a truly perceived threat of a conventional war from the East, would not our European allies who are closer to the "threat" then respond by an accelerated commitment of resources? But no, they would relax as well, accept the detente[23] and devote more resources to non-military ventures. Then why should we, 3,000 miles away, assume such arrogance as to perceive a greater threat to Europe than do the Europeans?

I think the question presumes a rational answer but there is none. It does highlight, however, the dominance of the military posture in Europe by the United States. Since the formation of NATO, there has never been a Supreme Allied Commander who was not an American. U.S. perceptions of the threat are tolerated by the Europeans and why not—the U.S. is footing the greatest share of the cost. Since it is really our nuclear response that the Europeans wish committed, their tolerance for our eccentricities—including the World War II conventional war contingency—is very high.

Should the unlikely contingency of a mass movement by Warsaw Pact forces take place, it is inconceivable to me that the President of the United States would not be in immediate contact with his counterpart in the Soviet Union. In any event, to pile inconsistency upon inconsistency, if the NATO military scenario calls for a defense of a massive move from the East, that move must necessarily come across the north German plains, the likely area for a swift move because of the terrain. For this conventional attack the U.S. forces are stationed in the wrong part of Germany. The U.S. forces are positioned in central and southern Germany with an enormous back-up capacity and with a consistently top-heavy command structure which still has one flag officer for roughly every 2,200 men.

It baffles me why a properly structured U.S. military force of one or at the most two lean, mobile divisions, in position to move rapidly along the German frontier, would not be even greater insurance against any form of pressure from the East.

It would be more realistic to the type of improbable attack that might conceivably come from the East. It would permit American forces to be engaged from the beginning thus allaying any fears on the part of the Europeans that the United States would not be involved in the event of a quick thrust into Western Europe.

THE MBFR**

Again and again over the years we have been told both by our own officials and those in Europe that some decrease in U.S. military presence should take place.[24]

But the time is never right for such action. Two years ago the argument was the policy of detente was underway and that nothing should be done that would disrupt the process, including the U.S.-USSR SALT negotiations and the goals envisioned by Chancellor Brandt's "Ostpolitik."

Today we find ourselves in a new situation. Success has been achieved in the first and most important round of SALT talks; the Warsaw and Moscow treaties have been concluded; the status of Berlin has been regularized; through the exchanges of visits between President Nixon and Chairman Brezhnev a new and better climate has been created which allows us to talk about the Cold War in terms of the past.

Despite this movement, we are being told that this is the "worst possible time" in which to take any action on the question of our forces in Europe. The bargaining chip is back. Negotiations on mutual force reductions are to begin on October 30th of this year.[25]

At the outset we were told by all the experts that MBFR negotiations will be even more complicated and lengthy than the first phase of SALT. Most informed and optimistic speculations are that the outcome of such negotiations after perhaps two to three years might be a reduction of no more than 10–15% on the part of those countries involved.[26]

Nothing has happened in the interim since President Nixon's letter of November 22, 1971, which has given us any different picture of this argument. Indeed, since the preliminary talks—i.e., talks as to whether there should be talks—were expected to take roughly five weeks and took about five months, my skepticism has been increased rather than diminished about MBFR. I really doubt that the United States can remain immobilized on the troops question for a minimum of two and possibly even four to five years. So the argument to wait for MBFR really is a postponement of significant action indefinitely.

UNILATERAL ACTION

The questions of MBFR are immensely complicated even if they were undertaken

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in a bilateral framework. The positioning of forces, the proportionate reduction of one side as opposed to the other because of different logistical requirements will generate solutions equal to the number of participants at the conference. So the complexity of MBFR is magnified 19 times.[27]

The wisdom of the North Atlantic Treaty which left the question of specific troop commitments in the NATO command to be decided *unilaterally* by each country is abandoned. Unilateral action on such a matter is the only practical method. Any nation entering into negotiations whether bilateral or multilateral only agrees in those negotiations to what she determines unilaterally she can do or must do in her own national interest. No negotiation with the Soviet Union determines that those troops are needed in the Eastern European countries for other than protection against an external threat. In like manner, if the Soviet Union senses a greater need for its troops on other frontiers, or if she desires to divert a greater proportion of her resources to non-military interests, then the appropriate reductions by the USSR will be made—but only then.

So unilateral action on our part to reduce U.S. troops in Europe, while still maintaining our commitment with a more wisely structured but significantly reduced level of troops could very well stimulate a similar independently arrived at response on the part of the Soviet Union. This is not unprecedented in recent history. Unilateral and independent actions taken by the United States and the Soviet Union for moratoriums on nuclear tests in the atmosphere precipitated similar constructive independent responses on each side which ultimately led to the nuclear test ban treaty. So the arguments that unilateral action cannot lead to constructive responses are unwarranted.[28]

Unilateral action on the part of the United States might produce surprising and constructive results. What people fail to realize is that the Soviet Union, ever since World War II, has not only been acting, but reacting, within its military establishment. Much of the Soviet force was created at a time when the United States had clear nuclear superiority. Most informed observers, here and in Western Europe, agree that the Soviet Union is considerably more conservative and suspicious than the United States because of its historical experiences and the character of its society.[29]

Yet no one seems willing to make allowances for the inertia of this military conservatism in the USSR. We forget that the speeches by our NATO Commanders, as well as our political leaders, regarding need for NATO strength and readiness are read in quite a different light by the Soviet leadership than we intended. It seems a simple proposition, that they trust us no more than we trust them, but we do not seem to be able to absorb this view and act upon it.

THE FINANCIAL BURDEN

Mr. Chairman, I have not dwelled upon the question of budgetary drain and balance-of-payments costs of our troops stationed overseas. I have deliberately left this point to one side in considering these questions because I believe the United States will bear the necessary costs to fulfill its international obligations. Our history will show that! But I believe it is clear that the United States can fulfill its international obligations abroad with a significant reduction of U.S. forces on foreign soil.

I believe a focus on this issue can be gained at last because of the competition for resources at home. But these resources will be saved, not by trimming our sails on our international obligations but by trimming the waste from years of inattention to a rational international policy.

This Committee is well aware that the overall costs of our commitment to NATO amounts to something in the neighborhood of $17 billion, including everything except strategic forces; that the direct annual operating costs for the approximately 300,000 U.S. forces actually located in Europe amounts to approximately $4 billion; [30] that the net balance of payments drain because of the U.S. forces in Europe is approximately $1.5 billion annually and that these figures are growing daily because of the United States' disadvantage because of inflation, successive devaluations of the dollar and other weakenings.

A return to rationality on the part of the United States and its forces abroad would yield a very significant savings in resources to the United States. I have deliberately, Mr. Chairman, not addressed myself to the issue of whether the troops that should be removed from foreign soil should be demobilized. It is my opinion that a very sound international policy for the United States could be implemented with a reduction of 50% of the over 500,000 troops stationed on foreign soil.

The return of over 250,000 military personnel would reflect the judgment that they were not needed to fulfill existing international and domestic obligations and therefore appropriate for demobilization. But I don't think that the question of demobilization has to be directly addressed at this time since I believe the pressures of obtaining a military armed force without the draft will to a great extend resolve the issue of demobilization.

CONCLUSION

Mr. Chairman, I would like to suggest a course of action which I hope you will agree is most reasonable and desirable. I believe it is a course that provides the appropriate civilian guidance to our military leaders and gives them sufficient lattitude in adjusting for themselves the specific reduction which would stem from this proposal.

I believe that we should move in the direction of a 50% reduction of our total forces stationed in all overseas territories. I believe this reduction should be accomplished within a three-year period and in a carefully structured way which would not necessarily entail the same percentage reduction in each of the three years or in any one area or the world, but would provide that not less than 25% of the total envisioned cut would take place in each of the three years. I prefer to do this on a worldwide basis because I believe the United States is overextended precisely on that basis.

Secondly, I would suggest confining the cuts to land-based units in order to permit our fleets to operate at appropriate strengths, but at the same time not excluding home ported naval units from the overall computation.

Finally, I am proposing to leave as much discretion to our military commanders as is commensurate with our foreign policy interests.

In sum, Mr. Chairman, the wasteful expression of our external power—expression well beyond any reasonable need—has begun to erode our internal freedom. The disclosures of recent months might very well be interpreted in part as the methodology of the American Empire returning home to undermine the fibre of our republic.[31]

I believe we have talked, debated and quarreled long enough about this whole problem of U.S. foreign policy as it is implemented abroad. The time for action is long overdue and action is what I hope this Committee will recommend.

FOOTNOTES

* The percentage of U.S. forces stationed overseas was even higher during some years since World War II.

[1] See Appendix A.

[2] *Ibid.*

[3] *Congressional Record*, Permanent Ed., June 25, 1969, p. 17245, 91st Cong., 1st Sess.

[4] *Congressional Record*, July 18, 1973, p. 24705; July 20, 1973, p. 25119, 93rd Cong., 1st Sess.

[5] Office of Assistant Secretary of Defense, Installations and Logistics, Sept. 16, 1972.

[6] See Appendix B.

[7] See Appendix C.

[8] See Appendix A.

[9] Adam Ulan, *Expansion and Coexistence* (New York, 1969) pp. 414–415.

[10] Senator GILLETTE. Just one additional question. There is no magic formula in the four plus two divisions, as I understand it?

Secretary MARSHALL. It is just a combination of considerations that we have had to turn over in our minds.

Senator GILLETTE. Taking into consideration a number of factors, the immediate availability of troops and the fact that we want to make, in our opinion, a move, take a course that will give some reassurance to our allies that we are taking into consideration our resources and their availability, the formula of four plus two was reached?

Secretary MARSHALL. Yes, sir.

Senator GILLETTE. And there is nothing magic about it?

Secretary MARSHALL. No, certainly not. . . Hearings on "Assignment of Ground Forces of the United States to Duty in the European Area," February, 1951, Committee on Foreign Relations and Committee on Armed Services, U.S. Senate, 82nd Congress, 1st Session.

[11] Senator HICKENLOOPER. . . . I do say to you that without any doubt in my mind, the North Atlantic Pact proposition was sold to a great many Members of the Congress on the idea that prior to aggression we would not be called upon to implement the land armies of Western Europe by large numbers of troops. . . .

Now, may I ask you, has the policy changed, or is this a new proposition? Has your position changed? Apparently it has, but I would like to have you comment on it.

Secretary ACHESON. I shall be glad to comment on what you have just stated.

The question which you asked me was understood by me as it has just been understood by Senator Smith, and that was whether, under article 3 of the treaty, we were expected, in the sense of were we undertaking a commitment, to send ground troops to Europe. I replied to you that the answer to that is a clear and absolute "no." We were not undertaking a commitment by article 3 of that treaty to do anything except to work with our allies to establish individual and collective defense.

I think it was clearly understood that way by the committee, which you will remember, and I should like to recall to you that that committee, in its report, said, under this article 3:

"Realistic assessment of the defensive capacity necessary to resist armed attack will be a function of the organization to be established under article 9."

And it goes on:

"On the basis of this assessment, each party would determine for itself what it could most effectively contribute in the form of facilities, military equipment, production capacity, manpower, etc. This decision would be taken in the light of the resources and geographical location of the individual state, and with due regard to its economic stability. There is no specific obligation as to the timing, nature, and extent of assistance to be given by any party."

That is exactly in accordance with my understanding then and now, and that was what I thought was being asked, and to that I was responding.

Senator HICKENLOOPER. I am trying to find out whether this is only the camel getting its head under the tent, and whether the 4

divisions will require 6 more and then the 10 will require 12 more, and where we are going, what we have to look forward to? In view of the fact that we did not contemplate sending any substantial numbers of ground troops to implement the North Atlantic Treaty, and now the scenes have shifted and we are being edged in, not by the back door but by the front door, with divisions of troops which at least I did not contemplate we were going to send or intended to send. I am wondering where the end of this matter is. In the long run will we be put into the inevitable position of assuming the primary responsibility for the land defense of Europe. I am concerned as to whether or not we are going to get ourselves in that position by this piecemeal attrition method, or whether our commitments on land forces at the moment meet our reasonable obligations under the defense program as it is now contemplated.

Secretary ACHESON. Senator, I think you are asking me quite impossible questions. I do not know. In the first place, you say. Are we going to be asked to take over the land defense of Europe? The answer is, of course, we are not going to be asked to take over the defense, the land defense of Europe. If you ask me whether in the future we may be asked to send more than six divisions, how can I possibly answer that? I suppose if there is war you will. Maybe if the situation gets better it will be less. Maybe if it stays the same it will be the same. Maybe if it gets more tense, there may be some additions to it. *Op. cit.*

[12] Senator SMITH (N.J.). Now, the immediate question I want to ask you is this: Are we building up this European Army by putting our divisions there at the moment, in order to deter an aggression while they are getting their strength built up. Will the time come when they will be able to defend themselves entirely without our aid so far as Europe is concerned?

In other words, can we look upon this as a gradually reducing contribution to the European Army of our United States forces, as we did on the Marshall plan from an economic standpoint? We started substantially and reduced until we do not have to give any more.

Now, is our support, ground support, of a Western European army on the same principle? Is it on the principle of giving them strength and giving them courage to go ahead and set up their force, but as they get their own strength we will gradually withdraw from there and keep our forces mobile for any part of the world where they may strike?

General BRADLEY. I think the question of whether a military contribution to Europe would be a decreasing one is almost an impossible one to answer at this time. So much depends upon the making of a peace treaty with Germany and the state of preparedness of the other nations, the continuing aggressive moves on the part of other nations that are presently opposed to us, and their ideology. I think, Senator Smith, that is a rather long-range question to which any answer at this time would not be worth much.

Senator SMITH (N.J.). The only reason I asked you the question is because I understood in talking with General Eisenhower that he thought we might think in terms of an approach similar to the Marshall plan from an economic standpoint: that what we are trying to do now is trying to put spirit into the European nations that may be fearful that we are not giving them support. They need it now more than they will a little later.

General BRADLEY. I think that is true. They need it possibly more now. And, if you can look far enough ahead to the time when France has 50 or 60 divisions and those other countries have similar size forces, the time might arrive when we could withdraw our forces altogether, and certainly when you get a peace treaty with Germany you are going to be faced with the question of reduction of forces, because some of these people are on occupation duties now; but that apparently is sometime in the future, and I would prefer not to try to answer your question, which in my opinion is based on conditions which are going to exist a considerable time in the future, and I can perceive of circumstances being possible which would permit us to withdraw entirely, but I say that is certainly going to be sometime off. *Op. cit.*

[13] See Appendix D.

[14] *Ibid.*

[15] Events from 1963 to 1973 which significantly contributed to the lessening of tensions between East and West:

1. Renewal of Franco-Soviet trade agreement. February 1963.
2. U.S.-U.S.S.R. agreement to establish an emergency communications line (hot line). June 1963.
3. Tripartite treaty banning nuclear weapons tests in the atmosphere, in outer space, and under water. October 1963.
4. Approval by President Kennedy of U.S. wheat sales to the USSR. October 1963.
5. U.S.-USSR agreement of exchanges in the scientific, technical, educational, cultural, and other fields. February 1964.
6. U.S. restores MFN treatment to Yugoslavia and Poland. March 1964.
7. Renewal of U.S.-USSR trade agreement. April 1964.
8. U.S. Romanian trade discussions. May 1964.
9. U.S.-USSR consular agreement. Signed June 1964. Ratified March 1967.
10. French-Soviet trade agreement. September 1964.
11. U.S.-USSR agreement on cooperation in desalination of sea water. November 1964.
12. Warsaw Pact Political Consultative Committee approval of the Rapacki suggestion for a conference on European security. January 1965.
13. Franco-Soviet color television agreement. March 1965.
14. Italo-Soviet agreement on joint cooperation in peaceful uses of atomic energy. October 1965.
15. U.S.-USSR consular convention. December 1965.
16. Italo-Soviet cultural agreement. February 1966.
17. Italo-Soviet economic, scientific, and technical cooperation agreement. April 1966.
18. Yugoslavia becomes full contracting party to GATT. April 1966.
19. De Gaule's visit to the USSR. June 1966.
20. Franco-Soviet space research agreement. June 1966.
21. Franco-Soviet scientific, technical, and economic agreement. June 1966.
22. Fiat-Soviet agreement for construction of a Fiat factory in Russia. August 1966.
23. Renault and Peugeot agreements with USSR regarding cooperation with Soviet motor industry. October 1966.
24. Kosygin's visit to France. December 1966.
25. Establishment of joint Franco-Soviet permanent commission. December 1966.
27. Establishment of joint Franco-Soviet chamber of commerce. December 1966.
28. North Atlantic Ministerial Council declaration emphasizing a willingness to explore ways of developing cooperation with the USSR and the states of Eastern Europe. December 1966.
29. Franco-Soviet atomic energy cooperation agreement. January 1967.
30. Franco-Soviet trade agreement. January 1967.
31. Kosygin visit to the United Kingdom. February 1967.
32. Fanfani visit to Moscow. May 1967.
33. Italo-Soviet agreement on cooperation in tourism. May 1967.
34. Italo-Soviet consular convention. May 1967.
35. Poland becomes full contracting member of GATT. June 1967.
36. U.K.-USSR establish London-Moscow teleprinter line. August 1967.
37. Harmel Report of North Atlantic Council proposes discussion of mutual and balanced force reductions in Central Europe. December 1967.
38. Announcement of plans for joint Franco-Soviet space research. January 1968.
39. Prime Minister Wilson's visit to the USSR. January 1968.
40. U.K.-USSR scientific and technological agreement.
41. NATO declaration calling for discussions of mutual and balanced force reductions. June 1968.
42. Signature of the non-proliferation treaty on nuclear weapons. July 1968.
43. Natural gas delivery contract consummated between the State of Bavaria and the USSR. September 1968.
44. U.K.-USSR civil air agreement. December 1969.
45. Franco-Soviet civil air agreement. December 1969.
46. Italo-Soviet long-term agreement on the supply of Soviet natural gas to Italy. December 1969.
47. Soviet-West German agreements on supply of Soviet natural gas to West Germany. February 1970.
48. Opening in Vienna of U.S.-USSR negotiations on strategic arms limitation (SALT). April 1970.
49. NATO declaration on mutual and balanced force reductions. May 1970.
50. Signing of non-aggression treaty between the Federal Republic of Germany and the Soviet Union. August 1970.
51. President Pompidou's visit to the USSR. October 1970.
52. Signing of Franco-Soviet protocol on Franco-Soviet political cooperation. October 1970.
53. Signing of treaty of normalization of relations between the Federal Republic of Germany and Poland. December 1970.
54. Creation of a new basis for SALT negotiations. May 1971.
55. Ouster of hard-line East German Communist leader, Walter Ulbricht. May 1971.
56. Resumption of SALT negotiations. July 1971.
57. Soviet-West German agreement to open consulates in Hamburg and Leningrad. July 1971.
58. Signature of first part of quadripartite agreement on Berlin. September 1971.
59. Chancellor Brandt's visit to the USSR. September 1971.
60. U.S.-USSR agreement on exchanging information on certain missile testing activities. September 1971.
61. U.S.-USSR agreement on improving the "hot line" between Washington and Moscow. September 1971.
62. Secretary Brezhnev's visit to France. October 1971.
63. Franco-Soviet agreement on economic, technical and industrial cooperation. October 1971.
64. Romania becomes a full contracting party to GATT. November 1971.
65. Soviet-West German civil air agreement. November 1971.
66. Ratification by the West German parliament of the West German treaties with the Soviet Union and Poland. May 1972.

67. President Nixon's visit to Moscow. May 1972.

68. U.S.-USSR agreement on cooperation in the exploration of outer space. May 1972.

69. U.S.-USSR agreement on cooperation in solving problems of the environment. May 1972.

70. U.S.-USSR agreement on joint efforts in the field of medical science and public health. May 1972.

71. U.S.-USSR agreement on expanded cooperation in science and technology and the establishment of a joint commission for this purpose. May 1972.

72. U.S.-USSR agreement on cooperation between the American and Soviet navies to reduce the chances of dangerous incidents. May 1972.

73. Signing of the SALT Treaty. May 1972.

74. Signing of the final quadripartite agreement on Berlin. June 1972.

75. U.S.-USSR three year agreement on the export of U.S. agricultural commodities (especially wheat and feed grains). July 1972.

76. Settlement of USSR lend-lease obligations. October 1972.

77. U.S.-USSR maritime agreement. October 1972.

78. Signing of U.S.-USSR Commercial treaty. October 1972.

79. Quadripartite declaration supporting East and West German membership in the United Nations. November 1972.

80. Signing of the basic treaty on relations between the Federal Republic of Germany and the German Democratic Republic. December 1972.

81. Opening of preparatory talks in Vienna for negotiations on mutual and balanced force reductions. January 1973.

82. Soviet-West German 10-year agreement on the development of economic, industrial, and technical cooperation, and cultural educational exchanges, May 1973.

[16] Hearings on "Assignment of Ground Forces of the United States to Duty in the European Areas," February, 1951, Committee on Foreign Relations and Committee on Armed Services, U.S.S., 82nd, 1st Sess.

[17] "Saturday Evening Post," October 26, 1973, page 27.

[18] House Foreign Affairs Hearings, July, 1973, 93rd Cong., 1st Sess.

[19] It was with disbelief that I read the newspaper reports of President Nixon's recent visit with President Pompidou of France in Iceland and the reports that President Pompidou told President Nixon that France would fight the removal of any U.S. troops from Europe, even if done in the context of the so-called "MBFR."

Here is the President of one of the great countries of Western Europe which removed all their troops from the NATO Command in 1967 which has refused to participate in the military aspects of NATO since that time, which responded very early to the changed circumstances of Europe—its political and economic health vis-a-vis the East, telling the President of the United States that France would protest the removal of any American troops from the NATO Command in Europe.

It is statements of this character that makes one wonder about the viability of U.S. European policy on forces in Europe. "Washington Post," June 1, 1973; June 28, 1973. See also Address by Michel Jobert, French Minister of Foreign Affairs, Before the National Assembly, June 19, 1973.

[20] The Military Balance 1972–1973," International Institute of Strategic Studies, London, England, pg. 90. See also Testimony Joint Committee on Atomic Energy, Subcommittee on Military Applications, April 16, 1973, 93rd Cong., 1st Sess.

[21] "The NATO military objectives are deterrence and defence. Yet NATO, and the United States in particular, maintain all-purpose, *offensive*-oriented, expeditionary-style forces that do not provide the desired deterrence because of their low *initial* combat capability and their destabilizing tactical nuclear posture. A force structure oriented for deterrence and defence can be bought at much less than present cost—as Soviet forces in East Germany prove. *Adjusted* (equal front-line platoon strength, defined as infantry, tank, cavalry, and anti-tank) peacetime division slices (the division itself plus its share of non-divisional support personnel) total *approximately 42,000 for American forces in West Germany; but only 18,500 for Soviet forces.*" "The Wasteful Ways of NATO," Steven L. Canby, *Survival*, Vol. XV, No. 1, Jan.-Feb., 1973, Institute Strategic Studies, London, England.

[22] Testimony of Secretary Rush, House Foreign Affairs, July 10, 1973, 93rd Congress, 1st Sess.

[23] Testimony of Administration witnesses, House Foreign Affairs, July 10, 11, 12, 1973, 93rd Congress, 1st Sess.

[24] I use the familiar abbreviation, MBFR, throughout, even though the more proper abbreviation since the preliminary talks is MFR. See: Final Communique of Preparatory Consultations.

[24] Most recent statement of Secretary of Defense Schlesinger that the U.S. is doing more than its fair share in Europe. House Foreign Affairs, July 1973, 93rd Congress, 1st Sess.

[25] The communique announcing the intention to meet on October 30th issued by the countries involved managed to lose the word "balance." When the Senate last voted on a proposed amendment to reduce U.S. forces in Europe, the distinguished Chairman of the Armed Services Committee received a letter from President Nixon stating his opposition to the amendment partly on the grounds that "we expect that Mr. Borsio will be received in Moscow next week to begin discussions on basic issues of mutual and balanced force reductions."

I do not myself doubt that this letter from the President naturally had great weight with our colleagues. But Mr. Brosio never got to Moscow and preliminary discussions on MBFR did not begin until this past January, 14 months after that letter.

[26] "Mutual and Balanced Force Reductions," Library of Congress Study, 73–36F, February 2, 1973.

[27] There are 19 countries participating in MBFR. See Appendix E.

[28] I only wish that the classic argument of doing things in unison with the Soviet Union would be applied when it comes to the stationing of U.S. forces on foreign soil. According to figures published by the International Institute of Strategic Studies, the Soviet Union has about 15,000 troops stationed outside the Soviet territory and Eastern Europe, whereas the United States has about 300,000 military forces scattered around the world, outside the U.S. and Europe. A parity with the Soviet Union in this area would be a significant and constructive start towards bringing America home again.

In its Eastern European satellites, USSR has stationed 330,000 USSR troops. See New York Times, July 20, 1973. The total USSR troops outside of Soviet soil is therefore 345,000.

[29] See Louis J. Halle, *The Cold War as History* (New York 1967).

[30] Testimony of William J. Casey, Under Secretary of State for Economic Affairs, House Foreign Affairs Committee, July 12, 1973, 93rd Cong., 1st Sess.

[31] *See* David P. Calleo, *The Atlantic Fantasy* (Johns Hopkins Press 1970).

APPENDIX A

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES AS OF MARCH 31, 1973

Total Outside the United States	606,000
U.S. Territories and Possessions	42,000
Foreign Countries	564,000
Selected Areas, Southeast Asia	63,000
Thailand	45,000
Afloat	18,000
Western Pacific	164,000
Japan	18,000
Philippines	15,000
Ryukyus Islands	40,000
South Korea	42,000
Taiwan	9,000
Afloat	40,000
Other Areas	66,000
Bermuda	1,000
Canada	2,000
Cuba	3,000
Guam	17,000
Panama Canal Zone	10,000
Puerto Rico	7,000
Afloat	16,000
Other	10,000
Western Europe and Related Areas	313,000
Belgium	2,000
Germany	228,000
Iceland	3,000
Italy	10,000
Greece	3,000
Morocco	1,000
Netherlands	2,000
Portugal	2,000
Spain	9,000
Turkey	7,000
United Kingdom	21,000
Afloat	23,000
Other	2,000

LESS THAN 250

Antarctica, Bahamas, Bahrain, Leeward Islands, New Zealand, Norway, Saudi Arabia, South Vietnam.

LESS THAN 1,000

Australia, Cyprus, Ethiopia, Greenland, Iran, Johnston Island, Midway Island.

All other countries: Less than 100 U.S. military personnel.

OSAD (COMPTROLLER),
Directorate for Information Operations.

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES AS OF DECEMBER 31, 1972

Total Outside the United States	635,000
U.S. Territories and Possessions	42,000
Foreign Countries	593,000
Selected Areas, Southeast Asia	97,000
South Vietnam	24,000
Thailand	43,000
Afloat	30,000
Western Pacific	162,000
Japan	20,000
Philippines	15,000
Ryukyus Islands	42,000
South Korea	38,000

U.S. MILITARY STRENGTH OUTSIDE THE UNITED STATES AS OF DECEMBER 31, 1972—Cont.

Taiwan	9,000
Afloat	38,000
Other Areas	69,000
Bermuda	1,000
Canada	2,000
Cuba	3,000
Ethiopia	1,000
Guam	17,000
Panama Canal Zone	10,000
Puerto Rico	6,000
Afloat	16,000
Other	13,000
Western Europe and Related Areas	307,000
Belgium	2,000
Germany	221,000
Iceland	3,000
Italy	10,000
Greece	3,000
Morocco	1,000
Netherlands	2,000
Portugal	1,000
Spain	9,000
Turkey	7,000
United Kingdom	21,000
Afloat	24,000
Other	3,000

LESS THAN 250

Bahamas, Bahrain, Johnston Island, Leeward Islands, New Zealand, Norway, Saudi Arabia.

LESS THAN 1,000

Antarctica, Australia, Cyprus, Greenland, Iran, and Midway Island.

All other countries: Less than 100 U.S. military personnel.

OASD (COMPTROLLER),
Directorate for Information Operations.

APPENDIX B

DEPARTMENT OF DEFENSE—MILITARY AND CIVILIAN DEPENDENTS LOCATED IN ALASKA, HAWAII, U.S. TERRITORIES, AND FOREIGN COUNTRIES, AS OF SEPT. 30, 1972

	Total dependents				Dependents of active duty military personnel					Dependents of U.S. citizen civilian employees [1]				
	DOD total	Army	Navy and Marine Corps	Air Force	DOD total	Army	Navy	Marine Corps	Air Force	DOD total	Army	Navy	Air Force	OSD-JCS and other defense activities
Total	465,779	170,683	91,356	202,950	437,198	155,648	69,547	14,395	197,608	28,581	15,035	7,414	5,342	790
Alaska	36,915	14,985	1,430	20,491	34,557	13,905	1,158	64	19,430	2,358	1,080	208	1,061	9
Hawaii	63,451	14,182	31,197	17,964	60,410	13,091	20,327	9,028	17,964	3,041	1,091	1,832		118
U.S. territories	31,342	6,946	11,296	12,906	28,121	6,012	8,848	618	12,643	3,221	934	1,830	263	194
Guam	12,153	12	7,149	4,987	10,645	12	5,473	173	4,987	1,508		1,503		5
Johnston Island	17			17	17				17					
Midway Island	742		733	9	723		714		9	19		19		
Panama Canal Zone	12,299	6,934	755	4,421	10,948	6,000	533	106	4,309	1,351	934	116	112	189
Puerto Rico	6,089		2,618	3,471	5,746		2,114	312	3,320	343		192	151	
Samoa (American)	26		26		26		7	19						
Virgin Islands	14		15		15		7	8						
Wake Island	1			1	1				1					
Foreign countries and areas	334,071	134,570	47,443	151,589	314,110	122,640	39,214	4,685	147,571	19,961	11,930	3,544	4,018	469
Afghanistan	17	17			17	17								
Argentina	46		21	25	46		14	7	25					
Australia	1,241	5	623	613	1,221	5	588	15	613	20		29		
Austria	42	38	1	3	41	37		1	3	1	1			
Bahamas	152		152		152		152							
Bahrain	246		246		246		237	9						
Barbados	85		85		85		85							
Belgium	3,039	1,795	200	1,014	2,792	1,578	186	14	1,014	247	217			30
Bermuda	1,127		1,127		732		680	52		395		395		
Bolivia	118	63	1	45	99	53		1	45	19	10			9
Brazil	170	28	64	46	115	6	54	9	46	55	22	1		32
Burma	12	3	9		12	3	4	5						
Cambodia	6	3	3		6	3	3							
Canada	3,190		674	2,498	3,047		561	50	2,436	143		63	62	18
Canary Islands	3		3		3			3						
Cape Verde Islands	4		4		4			4						
Chile	39		19	12	31		12	7	12	8				8
Colombia	98	50	16	19	72	37	8	8	19	26	13			13
Congo (Brazzaville)	2	2			2	2								
Costa Rica	23	17	3		17	14		3		6	3			3
Cuba	1,215		1,215		1,054		881	173		161		161		
Cyprus	282	5	277		282	5	208	69						
Czechoslovakia	4	1	3		4	1		3						
Denmark	69	19	16	31	66	19	13	3	31	3				3
Dominican Republic	81	26	43	9	75	23	31	12	9	6	3			3
Ecuador	41	18	11		13	2	6	5		28	16			12
El Salvador	28	3	5	16	21			5	16	7	3			4
Ethiopia (including Eritrea)	1,160	591	468	101	1,149	580	461	7	101	11	11			
Finland	39	25	14		39	25	11	3						
France	190	120	56	14	170	101	51	5	13	20	19		1	
Germany (including West Berlin)	151,019	103,180	1,579	46,102	143,580	97,067	1,406	144	44,963	7,439	6,113	29	1,139	158
Ghana	7	7			7	7								
Gibraltar	1,326	16	1,310		1,323	13	1,310			3	3			
Greece (including Crete)	2,237	131	51	2,051	2,048	105		23	1,920	189	26	28	131	4
Guatemala	988	84	886	18	988	84	881	5	18					
Honduras	34	22		7	25	18			7	9	4			5
Hong Kong	64	17	47		64	17	33	14						
Hungary	8	7	1		8	7	1							
Iceland	2,087		1,425	662	1,990		1,295	33	662	97		97		
India	57	23	28	6	57	23	22	6	6					
Indonesia	50	5	45		50	5	31	14						
Iran	770	287	24	454	764	286	24		454	6	1			5
Ireland (Eire)	509	15	476	18	509	15	470	6	18					
Israel (including Jerusalem)	21	11	10		21	11	8	2						
Italy (including Sicily and Sardinia)	14,209	3,101	4,790	6,318	13,324	2,612	4,322	171	6,219	885	489	297	99	
Ivory Coast	7	5	2		7	5		2						
Jamaica	9		9		9		5	4						
Japan	23,976	4,751	8,504	10,701	21,699	3,871	6,209	1,248	10,371	2,277	880	1,047	330	20
Jordan	14	4	1	9	14	4		1	9					
Kenya	3		3		3			3						
Laos	28	18	10		28	18	9	1						
Lebanon	85	54	27	1	79	51	14	13	1	6	3			3
Leeward Islands	115		115		115		115							
Liberia	62	36	26		62	36	20	6						
Luxembourg	41	39	2		7	5		2		34	34			
Malawi	12	11	1		12	11		1						
Malaya, States of	32	24	7		31	24		7		1				1
Malta	10		10		10		10							
Marshall Islands	33	29			2	2				31	27			4
Mexico	87		81		81		48	33		6				6
Morocco	2,073	34	1,982	57	1,980	17	1,806	100	57	93	17	76		
Nepal	5	5			5	5								
Netherlands	2,790	635	34	2,121	2,671	601	26	8	2,036	119	34		85	
Netherland Antilles	3		3		3		3							
New Zealand	316	5	131	180	316	5	123	8	180					

APPENDIX B—Continued

DEPARTMENT OF DEFENSE—MILITARY AND CIVILIAN DEPENDENTS LOCATED IN ALASKA, HAWAII, U.S. TERRITORIES, AND FOREIGN COUNTRIES, AS OF SEPT. 30, 1972—Con.

	Total dependents				Dependents of active duty military personnel					Dependents of U.S. citizen civilian employees [1]				
	DOD total	Army	Navy and Marine Corps	Air Force	DOD total	Army	Navy	Marine Corps	Air Force	DOD total	Army	Navy	Air Force	OSD-JCS and other defense activities
Nicaragua	46	32	2	8	37	27		2	8	9	5			4
Nigeria	29	27	2		29	27		2						
Norway	502	113	49	340	489	100	39	10	340	13	13			
Pakistan	12	5	4	3	12	5	4		3					
Panama, Republic of	2,270	1,594	32	641	2,051	1,410		32	609	219	184		32	3
Paraguay	355	27	293	19	326	14	286	7	19	29	13			16
Peru	34		13	8	21		8	5	8	13				13
Philippines	20,040	154	7,900	11,978	19,095	148	6,905	369	11,673	945	6	626	305	8
Poland	18	11	7		18	11	5	2						
Portugal (including Azores)	2,852	56	404	2,392	2,652	53	351	3	2,255	190	3	50	137	
Rumania	14	7	7		14	7	4	3						
Ryukyu Islands	25,860	9,538	2,063	14,259	22,872	7,075	883	1,151	13,763	2,988	2,463	29	496	
Saudi Arabia	86	60	4	22	50	24	4		22	36	36			
Senegal	12		12		12		9	3						
Singapore	45	6	14	22	31	6	9	1	15	14		4	7	3
Somali Republic	2	2			2	2								
South Africa	22	8	14		22	8	13	1						
South Korea	4,296	2,820	227	1,239	3,720	2,357	73	80	1,210	576	463	74	29	10
South Vietnam	20	1	13	6	20	1	9	4	6					
Spain	13,282	332	4,840	8,102	12,452	72	4,395	182	7,803	830	260	263	299	8
Sri Lanka (Ceylon)	10		10		10		8	2						
Sweden	30	21	9		30	21	7	2						
Switzerland	26	13	13		26	13		13						
Taiwan	5,853	822	983	3,977	5,691	782	882	50	3,977	162	100	51		11
Thailand	4,202	1,816	284	2,084	4,079	1,807	155	68	2,049	123	9	61	35	18
Trinidad and Tobago	18		18		14		11	3		4		4		
Tunisia	36	8	7	21	36	8		7	21					
Turkey	7,216	831	157	6,228	7,013	769	144	13	6,087	203	62		141	
United Arab Republic (Egypt)	36		36		38		28			8		8		
United Kingdom	30,668	713	2,930	27,013	29,446	349	2,491	279	26,327	1,222	364	160	686	12
Uruguay	24		11	13	24		6	5	13					
U.S.S.R. (Soviet Union)	49	21	25		46	21	18	7		3				3
Venezuela	77	13	23	22	58	13	11	12	22	19				19
Yugoslavia	29	20	9		29	20	5	4						
Zaire (Congo)	76	48	1	27	76	48		1	27					
Undistributed	68	6	48	14	64	6	14	34	10	4			4	

[1] Dependents of employees paid from appropriated funds. Data for Alaska, Hawaii and U.S. territories exclude dependents of U.S. citizen civilian employees who are permanent residents and who are employed in the State or territory of their residence.

APPENDIX C

DEPARTMENT OF DEFENSE

CIVILIAN PERSONNEL BY COUNTRY, AS OF DEC. 31, 1972

	Department of Defense				Army			Navy			Air Force			
	Total civilian personnel	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	OSD JCS and other defense activities
		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		
Worldwide total	1,189,030	1,012,380	69,322	107,328	364,164	34,820	77,709	319,060	20,761	11,178	260,809	13,363	18,392	68,774
United States	977,971	977,971			346,358			310,728			252,925			67,960
Alaska	5,465	5,465			2,602			157			2,684			22
Hawaii	19,888	19,888			5,793			10,722			3,285			88
Other 48 States and District of Columbia	952,618	952,618			337,963			299,849			246,956			67,850
U.S. territories	12,750	9,080	[1] 3,670		1,737	2,372		5,163	560		2,096	706		[1] 116
Guam	4,840	4,576	264					3,759	249		814	15		3
Midway Island	57	57						33			24			
Panama Canal Zone	4,646	1,243	3,403		828	2,372		159	308		182	691		106
Puerto Rico	3,199	3,196	3		909			1,212	3		1,068			7
Wake Island	8	8									8			
Foreign countries and areas	198,309	25,329	[1] 65,652	[2] 107,328	16,069	32,448	77,709	3,169	20,201	11,178	5,788	12,657	18,392	[1] [2] 698
Afghanistan	3		3											3
Argentina	17	5	12		1	7		2						7
Australia	316	27	289					25	288		2			1
Austria	6	2	4											6
Bahamas	3	3						3						
Bahrain	68	43	25		43				25					
Belgium	811	328	10	473	289	6	473							43
Bermuda	458	236	222					236	222					
Bolivia	20	6	14		3	8								9
Brazil	55	16	39		6	26		1	2					20
Bulgaria	3	1	2											3
Burma	4	1	3											4
Cambodia	7	1	6											7
Canada (including Newfoundland)	951	135	816			4		78	127		48	661		33
Chad	1		1											1
Chile	15	3	12			4								11
Colombia	14	4	10		1	6								7
Costa Rica	3	1	2			1								2
Cuba	1,130	253	877					253	877					
Cyprus	1		1											1
Czechoslovakia	3	2	1											3
Denmark	27	9	18		7	6						7		7
Dominican Republic	7	1	6			3								4
Ecuador	5	3	2											5

	Department of Defense				Army			Navy			Air Force			
	Total civilian personnel	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nationals	Direct hire		Indirect hire—foreign nations	OSD–JCS and other defense activities
		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		U.S. citizens	Foreign nationals		
Foreign countries and areas—Continued														
El Salvador	5	1	4			3								2
Ethiopia (including Eritrea)	495	34	461		31	394		3	65					2
Finland	6	1	5											6
France	37	21	14	2	13	7	2				2			13
Germany	73,437	11,013	39	62,385	9,734	32	54,449	12		55	1,188		7,871	96
Ghana	1		1											1
Greece (including Crete)	611	132	43	436	61	37	2	24		92	42		342	11
Guatemala	7	1	6			4								3
Haiti	1		1											1
Honduras	6	2	4			3								3
Hong Kong	13		13											13
Hungary	4	1	3											4
Iceland	703	134	569					128	550		6	19		
India	21	1	20					1	7			6		7
Indonesia	31	4	27		3			1	21					6
Iran	202	21	181		16	176					1			9
Ireland	1		1											1
Israel (including Jerusalem)	4	1	3								1			3
Italy (including Sicily and Sardinia)	3,241	811	2,430		565	1,013		179	815		63	596		10
Ivory Coast	2		2											2
Jamaica	1		1											1
Japan	[1] 45,020	5,581	1,424	38,015	2,124	72	18,871	1,063	1,344	10,398	2,381		8,734	33
Jordan	8		8			3						3		2
Laos	3	1	2		1									2
Lebanon	6	1	5									2		4
Leeward Islands	3	3						3						
Liberia	11		11			5						5		1
Luxembourg	14	14			14									
Malagasy Republic	1		1											1
Malawi	1		1											1
Malaya, States of	2	1	1											2
Malta	1		1											1
Marshall Islands	66	66			66									
Mexico	5	1	4											5
Morocco	694	111	11	572	47	6		64	1	572				4
Nepal	2		2											2
Netherlands	410	136	8	266	107	4	202				27		64	6
New Zealand	1		1											1
Nicaragua	5	1	4			2								3
Nigeria	4		4			1						1		2
Norway	69	31	38		30	5						29		5
Pakistan	21		21						8			7		6
Panama	2	1	1			1								1
Paraguay	9	4	5			3								6
Peru	16	6	10			3								13
Philippines	16,554	1,146	15,408		5	81		392	12,825		745	2,497		9
Poland	8	3	5											8
Portugal (including Azores)	1,136	214	922		3	7		93	22		117	879		5
Rumania	4	1	3											4
Saudi Arabia	32	11	21		1	16					10	4		1
Senegal	1		1											1
Seychelles Islands	1	1			1									
Singapore	42	20	22					12	15		8	3		4
South Africa, Republic of	5		5											5
South Korea	16,885	1,130	12,111	3,644	850	10,724	3,644	93	241		180	1,142		11
South Vietnam	18,103	571	17,532		426	16,456		98	352		24	713		34
Spain (including Balearic Islands)	2,609	744	1,865		408	59		146	1,071		183	730		12
Sri Lanka (Ceylon)	1		1											1
Sweden	7	2	5											7
Switzerland	5	3	2											5
Taiwan	1,934	254	1,680		65	205		69	645		115	825		10
Islands:														
Thailand	7,020	266	6,727	27	105	2,444		69	257		83	4,013		49
Trinidad and Tobago	1	1						1						
Tunisia	6	2	4		2	3								1
Turkey	996	379	617		259	115					120	498		4
United Arab Republic (Egypt)	106	4	102					4	102					
United Kingdom	3,553	1,249	796	1,506	713	479	66	113	309	61	412		1,381	19
Uruguay	10	1	9			5								5
USSR (Soviet Union)	16	4	12											16
Venezuela	13	5	8		1	3								9
Yugoslavia	4	1	3											4
Laire (Congo)	9	1	8		1	6								2
Undistributed	117	100	17		67			3			30	17		

[1] Includes 32 and 346 Direct Hire Foreign Nationals of OSD and Other Defense Activities in territories and foreign countries respectively.

[2] Includes 49 Indirect Hire Foreign Nationals of Other Defense Activities.

[3] Includes civilians located in the Ryukyus.

APPENDIX D

NATO AND SOME NATO SEGMENTS' TRADE WITH EASTERN EUROPE AND THE U.S.S.R.—1951–72

[In millions of dollars]

	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961
NATO [1] total exports [2] with Eastern Europe	515.7	522.4	551.1	769.3	887.5	1,159.9	1,303.7	1,368.1	1,497.8	1,925.3	1,896.9
NATO total imports with Eastern Europe	753.8	695.8	681.7	829.5	1,101.6	1,279.4	1,410.2	1,450.2	1,692.2	1,978.0	2,089.7
NATO total exports with U.S.S.R	129.0	184.1	164.6	237.2	243.5	415.3	412.3	444.7	418.0	672.8	761.1
NATO total imports with U.S.S.R	283.2	294.4	240.4	308.5	407.8	452.0	463.9	532.6	672.2	876.4	989.3
U.S. total exports with Eastern Europe	2.8	1.1	1.8	6.1	7.0	11.2	86.2	113.3	89.3	193.4	133.4
U.S. total imports with Eastern Europe	63.8	39.6	36.4	42.4	56.0	65.5	61.3	62.6	80.9	81.0	81.1
U.S. total exports with U.S.S.R	.1	(*)	(*)	.2	.3	3.8	3.6	3.4	7.4	39.3	45.6
U.S. total imports with U.S.S.R	27.4	16.8	10.8	11.9	17.1	24.5	16.5	17.5	28.6	22.6	23.2

Footnotes at end of table.

APPENDIX D—Continued

NATO AND SOME NATO SEGMENTS' TRADE WITH EASTERN EUROPE AND THE U.S.S.R.—1951–72—Continued

[In millions of dollars]

	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961
European NATO total exports with Eastern Europe	512.3	520.7	548.8	757.2	869.8	1,083.6	1,186.2	1,231.6	1,371.1	1,695.1	1,669.8
European NATO total imports with Eastern Europe	683.6	648.8	640.4	783.1	1,040.7	1,203.9	1,338.4	1,377.6	1,598.9	1,883.7	1,992.9
European NATO total exports with U.S.S.R.	128.9	184.1	164.6	232.0	240.5	386.5	397.2	421.8	397.3	625.0	691.3
European NATO total imports with U.S.S.R.	255.3	279.2	228.7	295.9	390.1	426.5	544.5	513.4	641.2	850.5	968.4

	1962	1963	1964	1965	1966	1967	1968	[3] 1969	[3] 1970	[3] 1971	[3 4] 1972
NATO total exports with Eastern Europe	2,144.6	2,258.5	2,835.7	2,779.7	3,397.0	3,667.5	3,956.1	4,436.3	5,194.9	5,712.3	7,477.7
NATO total imports with Eastern Europe	2,214.7	2,480.0	2,574.0	3,956.9	3,449.1	3,686.6	3,914.7	4,340.9	4,948.8	5,599.6	6,609.3
NATO total exports with U.S.S.R.	758.9	792.5	1,023.7	826.1	925.8	1,049.8	1,294.4	1,415.2	1,689.3	1,738.2	2,413.3
NATO total imports with U.S.S.R.	1,043.5	953.8	918.7	1,149.9	1,274.4	1,385.0	1,466.0	1,581.8	1,724.2	1,860.5	2,066.9
U.S. total exports with Eastern Europe	125.1	166.4	339.1	139.4	198.0	195.2	216.8	249.3	353.3	384.0	818.2
U.S. total imports with Eastern Europe	78.9	80.6	98.8	137.4	178.6	177.1	198.3	195.1	225.5	222.7	320.1
U.S. total exports with U.S.S.R.	20.1	22.9	146.4	44.4	41.7	60.2	57.5	105.5	118.4	161.8	546.7
U.S. total imports with U.S.S.R.	16.2	21.2	20.8	42.6	49.5	41.1	58.1	51.5	72.3	57.6	95.5
European NATO total exports with Eastern Europe	1,974.0	1,912.6	2,054.2	2,357.9	2,833.5	3,304.7	3,612.3	4,162.3	4,688.6	5,161.9	[5] 6,308.4
European NATO total imports with Eastern Europe	2,120.1	2,380.5	2,449.8	2,879.0	3,220.6	3,436.8	3,645.4	4,075.6	4,658.7	5,297.6	6,187.9
European NATO total exports with U.S.S.R.	735.7	630.4	584.5	598.8	587.6	870.4	1,154.1	1,399.6	1,473.7	1,451.0	1,801.8
European NATO total imports with U.S.S.R.	1,025.6	930.4	895.3	1,098.2	1,214.1	1,322.7	1,387.9	1,518.9	1,648.1	1,790.4	1,956.0

[1] All NATO member countries.
[2] East European Communist countries.
[3] Trade data with Albania excluded.
[4] Preliminary.
[5] Greece and Turkey trade computed at 1971 levels.
* Insignificant amount.

Note: Differences in the valuation of trade appear in various statistical series. Their relative value in relation to the totals shown here, however, is insignificant in the process of abstracting trends from this summary table.

Sources: Department of Commerce trade statistics, OECD trade statistics and assistance from Miss Lucie Kornei, Department of State, REU. Dario Scuka, analyst in international trade and finance, May 24, 1973.

APPENDIX E

RECORD OF PLENARY MEETING OF THE PREPARATORY CONSULTATIONS HELD IN VIENNA ON MONDAY, MAY 14, 1973 AT 10:30 A.M.

Chairman (Mr. J. A. THOMSON). We have gathered to resolve the question of participation and procedures. In this connection we, as I understand, are to hear nine points and four statements.

Mr. O. N. KHLESTOV. 1. Representatives of the following states are the participants in the preparatory consultations related to Central Europe which began in Vienna on January 31, 1973:

The Kingdom of Belgium
The People's Republic of Bulgaria Canada
The Czechoslovak Socialist Republic
The Kingdom of Denmark
The German Democratic Republic
The Federal Republic of Germany
The Kingdom of Greece
The Hungarian People's Republic
The Italian Republic
The Grand Duchy of Luxembourg
The Kingdom of the Netherlands
The Kingdom of Norway
The Polish People's Republic
The Socialist Republic of Romania
The Republic of Turkey
The Union of Soviet Socialist Republics
The United Kingdom of Great Britain and Northern Ireland
The United States of America.

2. Representatives of the following states, which are potential participants in possible agreements related to Central Europe, will take the necessary decisions by consensus:

The Kingdom of Belgium
Canada
The Czechoslovak Socialist Republic
The German Democratic Republic
The Federal Republic of Germany
The Grand Duchy of Luxembourg
The Kingdom of the Netherlands
The Polish People's Republic
The Union of Soviet Socialist Republics
The United Kingdom of Great Britain and Northern Ireland
The United States of America

If another state wishes to be included among the states listed in this paragraph and this is agreed by consensus of the representatives of the states listed in this paragraph, it may be so included. Such inclusion in negotiations or decisions related to Central Europe could either be general or, if so agreed, could be for the limited purpose of taking part in a particular decision or decisions relating to this subject. It is understood that such additional participation in decisions, agreements, or measures would be without prejudice to the security of any of the parties.

3. The following states will participate with a special status:

The People's Republic of Bulgaria
The Kingdom of Denmark
The Kingdom of Greece
The Hungarian People's Republic
The Italian Republic
The Kingdom of Norway
The Socialist Republic of Romania
The Republic of Turkey.

4. All participants will be seated as listed in paragraph 3 according to the English version.

5. The chairmanship will rotate from meeting to meeting among the representatives of the states listed in paragraph 2 in the order set forth in the English version. The first chairman will be drawn by lot.

6. All participants will have the right to speak and to circulate papers on the subject matter.

7. The meetings will be open only to the participants.

8. Following the opening statements, proceedings and documents of the meetings will be confidential except for those matters on which it is agreed in advance that another procedure will be followed. There will be no official records of meetings except as otherwise agreed.

9. The official languages will be English, French, German, and Russian.

Mr. B. QUARLES VAN UFFORD. The representatives of Belgium, Canada, the Federal Republic of Germany, Luxembourg, the Netherlands, the United Kingdom, and the United States of America wish to point out that the arrangements for the participation of Hungary in these consultations are without prejudice to the nature of Hungary's participation in future negotiations, decisions, or agreed measures or to the security of any party, and that, in particular, the question of how and to what extent Hungary will be included in future decisions, agreements, or measures must be examined and decided during the pending negotiations.

Mr. E. USTOR. In connection with the unilateral statement of the representatives of Belgium, Canada, the Federal Republic of Germany, Luxembourg, the Netherlands, the United Kingdom, and the United States of America the representative of the Hungarian People's Republic wishes to state the following:

As the representatives of Hungary and of other socialist states have explained during the course of the consultations, Hungary could consider participation in possible decisions, agreements, or measures only if the appropriate conditions are fulfilled.

Mr. B. QUARLES VAN UFFORD. It is understood that the arrangement on participation and procedures being adopted today will also be applied in the forthcoming negotiations.

Mr. O. N. KHLESTOV. It is agreed that the arrangement on participation and procedures being adopted today will also be applied in the forthcoming negotiations. This does not preclude the possibility of raising the question of inviting other European states to participate in these negotiations as observers.

Chairman (Mr. J. A. THOMSON). Are there any objections?

I see none.

It will be so recorded.

THE NEED FOR SAM–D

Mr. McINTYRE. Mr. President, later this week the Senate will consider an amendment to delete the funds recommended by the Armed Services Committee for the SAM–D missile system.

The SAM–D program has been a matter of indepth discussion and debate in recent years. Reservations have been expressed about the need, the cost effectiveness, and other aspects of this program.

The Research and Development Subcommittee of the Senate Armed Services Committee, which I chair, has given thorough and hard consideration to the SAM–D program. The subcommittee and the full Armed Services Committee are convinced that the SAM–D program is a must.

This program offers the best and most effective protection from the air that we can offer our footsoldiers in the future. I, for one, sometimes think we give too little thought to those who risk their

necks and their lives out in the front lines. The SAM–D is for their protection.

We will be debating the SAM-D program in some detail when the amendment is before the Senate. But, in the meantime and in partial preparation for that debate I wanted to make my colleagues aware of a very excellent article on the technical aspects of the SAM-D program which appeared in a recent issue of Aviation Weekly.

Mr. President, I ask that this article by Clarence A. Robinson, Jr., be included in the RECORD at this point.

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

SAM–D READIED FOR FIRING TESTS—DEMONSTRATION EQUIPMENT MOVES TO WHITE SANDS NEXT MONTH FOR SERIES OF LAUNCHINGS LEADING TO FULL-SCALE TRIALS IN 1974

(By Clarence A. Robinson, Jr.)

BEDFORD, MASS.—Demonstration equipment for the Army/Raytheon SAM–D surface-to-air defense missile system will be moved in July to the Defense Dept.'s White Sands, N. M., range with fully-guided, closed-loop, target-via-missile tests scheduled for the summer of 1974.

One of the Army's five biggest programs in Fiscal 1974 budget requests, SAM–D is scheduled to replace both the Raytheon MIM-23A Hawk missile and Western Electric Nike Hercules MIM–14B in the 1980s (AW&ST June 4, p. 27).

The Army budget director, Maj. Gen. John A. Kjellstrom, said, "The SAM–D will provide an increased rate of fire by combining the ability to simultaneously engage and defeat multiple aircraft in an increased electronic countermeasures environment. A significant reduction in personnel and maintenance be achieved when compared to the current air defense systems it is designed to replace." He added that the Hercules and Hawk systems, already modified and improved, will not be capable of meeting the threat in the 1980s and beyond.

Sixteen demonstration model firings will be conducted at White Sands, starting in May 1974, and running over a period of approximately 15 months. "The first six flights will not be closed-loop but will be fully monitored closed-loop but will be fully monitored flights. After the first few [tests], target-via-missile [TVM] guidance will be used with full control of the missile from ground equipment," said a Pentagon official.

In November, 1973, according to the official, 10 flights will be conducted using SAM–D control test vehicles with onboard programs for maneuver tests and full aerodynamic vehicles for testing propulsion and programed trajector. Seventeen full-up missiles will be tested with on-board guidance, and the first four will be ground controlled.

"Thiokol has already completed 14 static motor test firings at its Redstone Arsenal installation. HTPB [hydroxyl terminated polybutadiene] propellant is used in the single-stage high-energy propulsion system," explained Floyd T. Wimberly, Raytheon vice president and SAM–D program manager. "Thiokol is under contract to Martin Marietta, which is responsible to Raytheon for the total launcher complex, missile airframe, automatic pilot and control system."

The Thiokol tests included firings at extreme temperatures to meet tactical motor requirements. HTPB, according to Wimberly, "is low cost [and] has improved mechanical properties and aging characteristics."

Shear-spun maraging steel cases are used with the test motors, and the cases are rolled from a single ring forging to offer no longitudinal welds in the one-piece cylinder.

"Martin [Marietta] will have short-burn motor tests at its Orlando, Fla., facility in September, 1973, designed to check the capability of the control unit with actuated fins, speed/range and maneuvers. The tests will offer propellant data, some design modifications of the missile—some have already been accomplished—and an opportunity to do some final computing," added Wimberly. "The short burns will develop chamber pressure and test characteristics of the missile and canister as the missile leaves it."

The system's operating software and integration with the SAM–D hardware systems will be the key to the success of the missile in its present engineering development phase, and according to Wimberly, "It is a tough task that faces us." In the advanced development phase, successfully completed in 1971, integration of the hardware and software components into a fully functioning system was accomplished.

The software programs control:

Operations of the multifunction phased-array radar which detects and establishes a track of targets.

A near realtime situation display for operators to control the system.

Necessary predetermined logic for the large volume of data input from the phased-array radar leading to an engagement decision analysis.

Essential data processing to provide a format for the operators and initiate intercept operations for the missiles when authorized.

Generation of pre-launch data and commands for steering the missile during flight.

Communications to receive data from the battalion commander/coordination group and launcher groups for format and transfer to the hardware for engagement decision. Communications software transmits data and commands to the launcher groups, the command/coordination group and fire section.

"The SAM–D system operates in real-time accomplishment through its phased-array radar and software control. The phased-array radar is no more complex than radars used in other air defense systems," Wimberly said.

He said 5,240 phase shifters, elements used in the array antenna, are the key to the phased-array radar system. "A full-size array antenna has been constructed with the shifters, a driver and beam steering programer in a special test mount to verify pattern and gain characteristics," he added.

The phase shifter is approximately 8.7 in. long and weighs about 4 oz. Its characteristics already demonstrated during the test are:

Zero-deg. to 337.5-deg. phase shift.

22.5-deg. shift increment.

13 w. average to 2,500 w. peak power handling capability.

The phase shifter elements provide SAM–D with a practical method of combining the array radar with a digital computer and signal processing techniques to encompass the functions of an air defense system into a single radar, according to Wimberly.

Switching the beam in space electronically is accomplished in millionths of a second, Wimberly explained, and the radar's changing waveform, dwell time and power can be switched in millionths of a second using digital processing. "Search radar, tracking radar, and missile guidance radar are shared functions accomplished almost simultaneously by the radar. The computer memory can store and retrieve data to keep track of multiple targets while still performing all functions."

"SAM–D can engage in an order of magnitude many targets more than other systems. Even with an aircraft employing defense suppression tactics, including electronic countermeasures, maneuver tactics, anti-radiation missiles and formation flying, SAM–D is far less vulnerable to air attack than present systems," Wimberly said.

The SAM–D systems uses only 238 replaceable microelectronic modules to support all electronic circuitry in the system and 90% of all system electronics. "This compares to 30,000 replaceable parts in the Nike Hercules and Hawk systems," said Wimberly. "The cost of a weapons system is dependent to a great degree on the number of peculiar parts and the cost of each part," Wimberly added.

Standardized electronic assemblies, or modules, for the system have been applied to digital and analog components, A/D converters, power supplies and memories. High-power elements of the radar transmitter, low noise and pulse compression elements of the radar receiver are exclusions. "The entire SAM–D system will require fewer than 3,000 repair parts, with a reduction of this number occurring as we progress in engineering development," Wimberly said.

"The fire section performs the basic functions for air defense with the SAM–D," said Wimberly. A fire section is broken down into a radar, a weapons control unit that houses the computer and two men required to operate the system, and multiple launchers with each containing four missiles.

The launcher systems are located remotely from the radar and control shelter and operate over an established radio data link. No land lines are used with the system, according to Wimberly. "SAM–D's radar has no pattern so that enemy aircraft will not be able to locate the radar by finding launchers," he said. "Movements from one location to another is rapid and can be accomplished in about the same time frame as field artillery relocation."

The exact number of launchers used with a fire section has been given a secrecy classification by the Army, but Raytheon is basing its contract pricing on five launchers per section. More can be used, but "that is a nominal deployment figure," said a Raytheon official.

Six SAM–D fire sections will make up a SAM–D battalion. While fire sections can be deployed independently, the Army does not anticipate operating them separately. Within the battalion, only 33 men are directly involved in the operation of the SAM–D system, according to the Army, and they are employed for maintenance of the system.

"Radar and weapons control units are mounted on standard Army inventory vehicles. The launchers are located in standard vehicles also and deployed remotely about 1 km. [0.621 mi.] away from the radar," said Wimberly. "Even the generators used with the SAM–D are Air Force off-the-shelf equipment. The fire section has three 60-kw. gas turbine generators with a spare in reserve."

A SAM–D battalion is transportable either by USAF/Lockheed C–141 or the Army's heavy lift helicopter (AW&ST May 21, p. 19).

Raytheon is developing SAM–D under a cost incentive contract arrangement that encompasses production unit price goals. They include:

Phased-array radar at a production cost of $2.8 million per copy, based on 125 units. Raytheon estimates it will better that figure.

Launchers at $250,000 per copy, based on a run of 625. The company believes it is very close to that cost now.

Weapons control unit for $887,000 each, based on building 125 units. Raytheon is under that figure now, according to the Army and the company.

Missiles for $90,000 per copy, based on a run of 6,250. Company officials said they will have the biggest struggle in this area. They have not achieved the goal yet but believe they are very close to it.

The missile, said Wimberly, will employ an Army warhead similar to but bigger than the one used on Hawk. "Twenty of the warheads have been fired in ground tests at the Army's Picatinny Arsenal, N.J., where the development of the warhead is being done. A full up SAM–D with the new warhead will be flying by 1975," said Wimberly.

Approximately $557.8 million has been

spent on SAM–D thus far, with about $258.9 million for total expenses in the advanced development phase. The total research, development, test and evaluation costs are estimated at about $1.1 billion with $91 million in management reserve. The total costs for engineering development are estimated at $700 million.

"The SAM–D system will be extremely cost-effective for the Army when comparing it with the systems that it will replace in the air defense inventory," Wimberly explained. "The system minimizes the number of major equipment items and the number of parts necessary for support. It increases firepower at a ratio of 4:1 over present systems while reducing manpower levels to achieve it. Skill levels required of these men are also reduced, saving money spent on training."

The Army added that a major manpower reduction is possible by using advanced technology: Electronic rather than mechanical equipment, radio communications instead of cables, advanced solid-state circuit modules for high reliability with automatic built-in test features to reduce test and maintenance functions. Circuit modules have been standardized throughout the system to reduce the number of special parts by a factor of 10, the Army added. "About 92% of the time," said Wimberly, "the software will locate and isolate problems within the system down to the circuit module level. The modules can be replaced at battery level and they are repairable at depot level. The skill level is much less since no oscilloscope or soldering iron soldiers will be required at battery level.

"The whole system from beginning to operation in the field has been geared to reduce costs," said Wimberly. "A special-purpose computer by Raytheon with a processor designed for SAM–D uses 80% off-the-shelf storage units. The storage capacity is about 750,000 bit words expandable to 1.5 million bit words. The system is a truly advanced state-of-the-art."

Wimberly said that the guidance system, track-via-missile (TVM), is conceptually similar to the Hawk's but is mechanically different and with the phased-array radar can avoid suppression tactics of aircraft. "To reduce costs in a guidance system, the SAM–D does all the processing on the ground instead of in the missile. A pulse Doppler time shared waveform in a missile is too expensive. The idea is to get the missile to a point in space to go into a terminal maneuver. The dual-mode TVM receives midcourse commands directing it to the target after a preprogramed initial turn. In the terminal phase, the guidance system [seeker] acquires the target and relays information to the radar on the ground for final calculations.

TVM can select a single aircraft from a formation and home on it based on its potential threat.

"The airborne guidance system was tested under electronic countermeasures conditions in ground-to-air and air-to-air captive flight tests. To save funds we installed the guidance section in one aircraft and flew another aircraft at it. It provides the needed guidance data and saves destroying the expensive seeker," said Wimberly.

"The Army has been criticized for the increase in costs of the SAM-D program," Wimberly said. The original costs were increased in first quarter Fiscal 1972 by $1.2 billion. More missiles and launchers accounted for about half of this figure. It also included escalated dollars in future years for the first time. About $600 million was added because of the 'then year dollars' required by the Defense Systems Acquisition Review Council in February, 1972, to initiate engineering development.

The Army has presented material on SAM–D to the North Atlantic Treaty Organization, and West Germany has displayed an interest in the system. The Army is interested in a co-production contract with a NATO nation, said Wimberly, but not in a codevelopment deal.

"Most likely SAM-D will have a new name that will be selected from a list prepared by the Army. It also is likely that it will become a corps commander's weapon complemented by forward area anti-aircraft defense systems as gap-fillers at low altitudes. It is certain that the SAM-D concept of a single radar to track and conduct siltaneous launches against multiple targets on a cost-effective basis has been proved," concluded Wimberly.

AMENDMENT NO. 533

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from South Dakota relative to economic conversion. There will be 2 hours of debate on that amendment.

Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. McGOVERN. On my own time.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a unanimous consent request?

Mr. McGOVERN. I am happy to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on this amendment be reduced to 1½ hours instead of the 2 hours originally agreed to.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on the Eagleton amendment on the XM tank be reduced to 1½ hours, subject to his approval only, in lieu of the 2 hours originally agreed to.

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

Mr. McGOVERN. Mr. President, I call up my amendment No. 533 and ask that it be stated.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk proceeded to read the amendment.

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

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

Amendment No. 533 is as follows:

On page 26, between lines 22 and 23, insert a new title as follows:

"TITLE VII—ECONOMIC ADJUSTMENT

"SEC. 701. (a) There is hereby established within the Department of Defense an office to be known as the Office of Economic Adjustment (hereinafter in this section referred to as the 'Office'). It shall be the function of the Office to carry out the provisions of this title, under the supervision and control of the Secretary of Defense, and to carry out such other functions as the Secretary of Defense may prescribe.

"(b) There shall be at the head of the Office an officer to be known as the Director of the Office of Economic Adjustment (hereinafter in this section referred to as the 'Director'). The Director shall be appointed by the Secretary of Defense.

"SEC. 702. There are authorized to be appropriated during the fiscal year ending June 30, 1974, the sum of $50,000,000 for use by the Office to assist workers, business firms, and communities which may suffer economic damage as a consequence of reduced expenditure on any defense facility or installation or on any defense project or program being carried out by any business entity. Any amount appropriated under authority of this section shall be in addition to any other funds appropriated to carry out the functions of the Office.

"SEC. 703. (a) At least one hundred and eighty days prior to the closing or substantial curtailment of any military camp, post, station, base, yard, or other installation in the United States employing five hundred or more people, or at any earlier time when the consideration of such action begins, the Secretary of Defense shall notify the Director of such contemplated action.

"(b) Upon such notification, the Office shall immediately begin consulting with appropriate local, State, and Federal officials and with private individuals in communities which may be affected by such closing or curtailment. The Office shall further begin preparing recommendations for alternative productive uses of facilities no longer required by the Department of Defense on such installation and for employment opportunities to replace those to be lost when the installation is closed or curtailed. Such recommendations shall include proposed specific action which should be taken by other agencies of the Federal Government as well as suggestions for actions to be taken by local and State agencies and private groups and individuals.

"(c) Recommendations developed as provided by subsection (b) of this section shall be completed no later than the date on which the military installation is scheduled to be closed or curtailed.

"(d) At the request of appropriate local officials, the Office shall assist in the implementation of economic adjustment plans by providing expert and technical advice and information and by coordinating such plans with other appropriate Federal agencies

"SEC. 704. (a) In negotiating any contract for the procurement of specialized goods or services for the Armed Forces of the United States in which—

"(1) the value of the contract is in excess of $10,000,000, and

"(2) the contract is made with a contractor whose business with the Department of Defense accounts for 25 per centum or more of his total business, including the contract being negotiated,

there shall be included in such contract a provision which requires the contractor, under such rules and regulations as the Secretary of Defense may prescribe, to undertake planning and preparation for the employment of the personnel and utilization of the facilities employed on such contract after the completion of such contract or in the event that such contract is canceled or the work thereunder is curtailed.

"(b) The terms of any such contract shall also require the contractor to supply reports on such planning to the Secretary of Defense and to the Director within sixty days thereafter, until the contract is completed or otherwise terminated.

"(c) The reasonable cost of performing the planning and reporting requirements imposed by this section, including market research, independent studies, and the employment of specialized personnel, may be included as a part of the cost of performing the contract.

"SEC. 705. In performing the duties as-

signed by this title, the Office is authorized to—

"(1) employ on a temporary basis, or contract with, private firms or individuals with expertise which may be helpful in finding solutions to specific economic adjustment problems, and

"(2) secure the assistance of other Federal agencies, including the Economic Development Administration, the Department of Commerce, and the Department of Labor, which administer economic development programs or conduct activities which might utilize the facilities or employ the manpower that become surplus to the needs of the Department of Defense."

On page 26, line 23, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII".

Renumber sections 701 through 703 as sections 801 through 803, respectively.

Mr. McGOVERN. Mr. President, I call up my amendment No. 533 and ask that it be stated.

This amendment addresses a problem which has concerned me for at least 10 years: How can we smooth out the sharp economic dislocations that are bound to occur whenever a military procurement contract is ended, or whenever a military installation is closed or curtailed?

Neither the Congress or the executive branch has yet come up with a satisfactory answer. And we have learned that painful lesson again this year.

On April 17, with little or no prior warning, the administration announced 274 specific steps to change the status of military installations in the United States and Puerto Rico. A total of 42,800 jobs were eliminated. And that does not describe the full impact. A total of 74,000 jobs were either lost or transferred elsewhere.

That may not be such a large figure on a nationwide basis. But, as is always the case, the impact was concentrated. Just seven States—Rhode Island, Massachusetts, California, Georgia, Texas, Kansas, and Pennsylvania—suffered about 78 percent of the job dislocations announced in April. And the job terminations focus primarily on just 28 cities. They have been dealt an enormous economic blow.

Many of those areas were already in economic trouble when these latest decisions were announced. Most of them have been heavily dependent on the military for a number of years, and some were depressed because of prior base closings or because of declining arms contracts. Two earlier actions of this kind, in October of 1969 and in March of 1970, had already closed a total of 22 major installations, and had eliminated nearly 127,000 jobs.

There are two aspects of these April 1973, actions which I find especially hard to understand.

First, as Senator PELL has pointed out so forcefully in recent months, it is extremely difficult to comprehend why some of the installations were actually being built up and modernized before the 1972 elections, only to be closed soon after the votes were in.

According to an article in the Newport Daily News on May 2 of this year, Undersecretary of the Navy Frank Sanders said the termination of some of these naval stations was the result of a "thoroughly thought-out deliberate decision that was made in 1969."

Yet in his testimony in June before the Military Construction Subcommittee, Senator PELL pointed out that:

In the last year's budget, fiscal year 1973, you authorized, at the request of the Defense Department, $18,849,000—the largest military construction budget in the history of Rhode Island for the very same military base areas that were about to be closed down.

Senator PELL also referred to a newspaper advertisement from last fall's campaign paid for by the Finance Committee to Re-Elect the President. He said that:

Many people understandably followed the admonition of this advertisement to the effect that if our State voted for Senator McGOVERN they would lose our Naval bases and their jobs.

Senator PELL continued:

Accordingly, they voted for President Nixon and still find themselves losing their bases and their jobs.

That is one confusing aspect of this latest series of steps to change the status of military installations in the United States. The odor of political manipulation at the taxpayer's expense is very strong indeed.

I also find it very hard to fathom why the administration decided to carry out these sweeping cutbacks at home, while they are continuing to underwrite similar facilities abroad.

The overall figures are becoming quite well known: more than 2,000 military bases and installations abroad; some 500,000 American troops stationed in other countries, and another 100,000 at sea; more than 173,000 foreign nationals employed on those bases; a net balance-of-payments drain of $1.5 billion from our forces in Europe alone, and of perhaps $5 billion from the worldwide total.

What is more, some of those facilities abroad are virtually identical to installations that were terminated here at home in April.

Senator TUNNEY has pointed out that the carrier U.S.S. *Midway* used to be home ported at Alameda, Calif., and used to be repaired at Hunters Point Naval Shipyard in San Francisco.

Now the *Midway* is home ported in Yokosuka, Japan. Hunters Point has been closed. And the Navy is expanding the Naval Ship Repair Facility at Yokosuka.

Senator TUNNEY has properly observed that it "appears to be the express intent of the Department of Defense to transfer work previously done domestically to foreign bases to take advantage of cheaper labor costs." Whatever the reason, the administration seems determined to keep exporting military work, while it is laying off defense-related workers here in the United States. For a country with severe balance of payments problems, with persistently high unemployment, and with a currency that is becoming more and more depleted in the world money markets, that is a strange posture indeed.

Nonetheless, these arguments have been made with a great force in recent months, and they have been unavailing. The warning that a new President would close bases was apparently not seen by its authors as a promise that the incumbent would keep them open. And I know of no case in connection with these decisions on U.S. military installations in which the administration has yielded to reductions of bases overseas instead. The terminations, transfers, and cutbacks at home are going through as originally announced.

Under those circumstances, the least we can do is move speedily to alleviate the hardship to our own people. In cases of this kind we should make a maximum effort to see that the economic slack will be taken up as quickly as possible, and to find possible alternative uses for the facilities the Pentagon says are beyond its needs.

That is the first objective of the pending amendment.

I am pleased to note that there has been a noticeable increase in concern about economic conversion with the Department of Defense, especially in the wake of the April decision. Some years ago I had some experience in attempting to work with the Pentagon's Office of Economic Adjustment when an ordnance depot at Igloo, S. Dak., was closed. We found that the Department could do little more than write encouraging letters and try to make helpful contacts with other Government agencies. This year's expansion of the staff of OEA, from 13 to 33 persons, should make that office somewhat more effective. The expansion of the Economic Adjustment Committee, which attempts to tap the resources of other agencies of Government, was another useful step.

Yet the available resources are still spread far too thin. And conversion is still an afterthought. Instead of planning ahead, the Government comes in belated to see if the pieces can be picked up.

My amendment has two main provisions in this respect:

First, it would require advance notice, through the Office of Economic Adjustment. The director would have to be advised at least 180 days in advance of any firm decision to close or substantially curtail a military installation in the United States—or sooner, if such a step is under consideration longer than 6 months.

Second, the Office of Economic Adjustment would be further expanded and its obligations to consult with local leaders and to prepare conversion recommendations would be formalized. I propose a $50 million addition to the OEA budget—a modest amount, but enough to secure a much more substantial expert staff, to contract out some of its more specialized work, and to prepare recommendations that will make a real contribution at the local level.

I see no persuasive reason why these plans affecting U.S. military installations must be kept secret until the last moment, so they can be sprung on an unsuspecting public. Surely suspense is not a useful commodity, to be bought at the expense of sound planning. It makes far more sense to let people know what may be in store, so appropriate preparations can be made. And it makes eminent

good sense to aim for conversion plans that can be implemented at the same time as the old activity is being phased out, so that instead of boom-to-bust-to-recovery, we can promote a stable economic pattern throughout the transition.

Likewise, the added $50 million in budget authority for the Office of Economic Adjustment makes sense. While major decisions must, of course, be made at the local and State levels, we should nonetheless have an operational agency at the Federal level, and not just a consulting group. That is the one way we can assure that all options are adequately laid out for those who will decide what route to take. To put the cost in context, it is useful to note that the total addition is only about one-seventh of what the administration expects to save annually from the base closings announced in April, and work on matters of that kind will represent only a part of OEA's business. Further, if the Office makes the kind of contribution I expect to economic stability, it could easily pay for itself, by recouping tax revenues that will otherwise be lost through localized economic stagnation.

The amendment is also designed to deal with another aspect of the economic conversion problem, and that is the effect Pentagon procurement decisions have on arms industry workers and on local economies.

Specifically, it provides that as an explicit condition of fulfilling military procurement contracts, arms industry managers must undertake continuing planning to employ their workers and use their productive resources when those contracts are completed or phased out.

The planning requirement would apply only to companies which are engaged in substantial military work and to those which are substantially dependent on military work. It would be written in on each contract of $10 million or more, if the company involved does at least 25 percent of its total business with the Pentagon. So it would not place an excessive burden on small businesses.

The reasonable costs of this conversion planning could be written into the contract price. So there would be not only a negative incentive against failing to plan, but a positive incentive for making good plans.

I contemplate that the adequacy of those plans would be evaluated by the Office of Economic Adjustment. The amendment requires regular reports on planning to the Director of that Office, as well as to the Secretary of Defense.

In many ways this aspect of the conversion problem is more complex than that of dealing with closed or curtailed military installations. The status of the worker in the private arms industry is more precarious because he usually has no such thing as tenure. In response to the April cutbacks, DOD imposed a Defensewide freeze on permanent appointments, in order to build up a stockpile of jobs for workers displaced from the installations that were closed. It is hard to imagine a private arms contractor implementing plans of that kind. On the contrary, I think the arms industry in general has exhibited a remarkable degree of shortsightedness, usually expecting simply to get another military contract to replace the current one, and usually making no contingency plans in case there is no new Pentagon contract at all.

The need for such planning is sharpest, of course, in a period when military procurement is declining. But to some extent it is present all the time. Military procurement is a boom and bust industry. There are frequent long gaps between the time one contract is finished and the time work begins on another. It also happens that the subsequent contract goes elsewhere. So prudence dictates continuing preparations, even when military spending is relatively stable.

It may be argued that this planning requirement interferes too much with the management of private industry. But, upon close inspection, that concern simply does not hold up. Rather than describe them as free enterprise, it is more appropriate to define the major arms suppliers simply as extensions of the Pentagon.

The distinction between buyer and seller has virtually disappeared. Since only a very small portion of contracts are based on competitive bidding, there is rarely a market test of efficiency or quality. Because work is related to national security, considerations of cost play a minor role. Price escalation, instead of resulting in lost business for the company, usually brings a few red faces in the Pentagon and renegotiated contract to assure the company at least some profit. Government supplies much of the machinery used in production. And if a company's management is bad, the Government stands ready to assure continued survival of the firm by finding that it is essential to the Nation.

Therefore, it seems logical to exhibit the same kind of concern for the job security of arms workers in the private sector as we do for workers whose pay comes directly from the Pentagon. Further, since we have been so solicitous toward those who invest their money in military production—underwriting Lockheed, for example, to the tune of $250 million—it is certainly no imposition to expect that they, in turn, will take steps to protect their workers against long-term unemployment.

Finally, it is pertinent to note that action of this kind will be needed even if the administration's military procurement budget goes through intact, or even if there are no further cuts below the figures set by the Armed Services Committee.

Despite the proposed overall increase in military spending, the President's budget requests $1.3 billion less than in fiscal 1973 for procurement and research and development. That means lost jobs in the private sector.

The Armed Services Committee has made a further reduction of about $1.5 billion on specific weapons systems. If the bill is approved as reported, that means military procurement and research and development will be down $2.8 billion from last year. And that means thousands more lost jobs—thousands more people relegated into what is already a buyer's job market, with millions of skilled workers unemployed.

It is pertinent to note, too, that much of what has been included in this budget falls into the category of "bargaining chips," to be used by our diplomats in pursuit of an agreement in the strategic arms limitation talks, phase II. I think that is bad strategy because it inevitably pushes up the terms of the agreement and because whether or not we "win" at the bargaining table, we lose the cost of our "bargaining chips" when we build them. But in any case, it is clear that if SALT II produces any meaningful agreement, we can expect even bigger cuts in procurement and research and development over the next several years. That means the planning process for alternative employment and use of facilities should start now.

For most of us the transition from war to peace represents a time of hope and opportunity. We want very much to turn our attention away from war and toward the compelling problems we have at home—housing, health, transportation, the energy crisis, the economy, and other concerns which now constitute the major threats to the well being of the American people.

It is within our power to spread that spirit of optimism, to include even those who have grown dependent upon arms spending. Their skill and their energy is needed in the civilian sector. What we must do now is allocate the resources to employ them, and then give management some positive incentives to begin planning for the changeover from military to civilian priorities.

That is the purpose of this amendment. I hope it will receive broad support.

Mr. PASTORE. Mr. President, will the Senator yield? I expect to speak on my own time later.

Mr. McGOVERN. Mr. President, I yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I am one of those who have lived through this agony. I dare say that the Senator from South Dakota is absolutely correct. As a matter of fact, he made the statement that there was little or no warning. There was absolutely no warning, not even a little warning.

The fact remains that we in Rhode Island who have had a 200-year tradition with naval facilities in our State took 50 percent of the cuts that were inflicted all over the country. One can imagine the severe blow dealt to the economy of our State. We have not gotten over it yet. I do not know whether we will ever get over it.

The Senator talked about no warning being given. I had heard rumors, and I was faced by the workers of Quonset Point and Newport Naval Base in my State of Rhode Island in September of 1972.

I picked up the telephone and called Admiral Zumwalt. I said:

Admiral, you have come to me a number of times and have asked me to support the security of this country. And I have always done so, sometimes subjecting myself to criticism on the part of the penny pinchers.

Even my opponent in the last election said I gave a blank check to the Defense Department. Where does the Senator think he is now? He is writing speeches for the President.

When I was talking to the admiral on the telephone, I said: "What will happen, Admiral?"

The admiral said: "Well, there has been a study going on for 2 years. We have not made up our minds yet."

Mr. President, their minds were already made up.

I said: "What is the study about? What is going to happen to us?"

The admiral said: "Well, I can't tell you."

He was very candidly elusive, and I told him so at the time we had hearings before the distinguished Senator from Missouri (Mr. SYMINGTON).

The admiral said: "Of course, the decision will have to be made by the Secretary of Defense."

I then called up Mel Laird. I asked him about it.

He said: "John, I know that there is a report. It is not on my desk yet. However, I am not going to take the responsibility. I am going to wait for the next Secretary."

So, we wrote a letter to Mr. Richardson, who had been nominated by the President to be the Secretary of Defense. I sent him a letter and congratulated him.

He said: "When I am confirmed, I will talk to you."

We went to the Pentagon. The Governor came down and we went with him to the Pentagon. We talked to Mr. Richardson. He took out one of these pads and made copious notes. When he got through, I said: "What can I report to the State I represent? What can I tell the people? Are they going to be ordered closed or not?"

He could not tell me. So, we had a meeting with the Massachusetts delegation in Tip O'Neill's office. Mr. Richardson was there again. And he was again elusive.

I said: "Well, can we throw our hats in the air or begin to cry in our beer,"

He said: "Well, you will be hurt."

I said: "Where?"

He said: "I can't tell you."

The only solution we had was to write a letter to the President of the United States. We wrote the President of the United States asking for a meeting. We got a letter back from a man by the name Cook saying: "We will refer it to the scheduling office."

I knew that the President was busy with Watergate. So, I called up Henry Kissinger. And I said: "You are in the President's office every day. Can you find out for us and let us know?"

When we did not hear from him, I called General Haig. They said that Kissinger had left for Paris.

I said: "What is the answer?" We had to wait until he came back.

So, Henry Kissinger came back. And there was another Secretary of Defense, Jim Schlesinger.

When Henry Kissinger came back I called and said: "Henry, what is the answer?"

He said: "I should talk with Jim Schlesinger."

I said "Yes, I know him well. He used to be Chairman of the AEC." I am vice chairman, of the Joint Committee on Atomic Energy.

I did not get anywhere. I called up General Haig and I said: "You are the new staff aide to the President." That was after Ehrlichman had resigned. He said: "Well, I will let you know." So, I never heard from him either.

So finally I talked with Tom Korologos, he took it up with the President, and finally the President saw us. He gave us the ultimatum. He said: "Gentlemen, I am sorry, but this is the way it is."

We have not got the excess land yet. They have given it to somebody for training purposes. We have had a job checker up there. The Navy wants to keep most of the land, anyway. They said they had to close down these installations, but they still want to keep the land.

So that is where this bill comes in. It calls upon the Department of Defense to take it up with the communities, with the States, with the congressional delegations, so they may know just what plans to make. So that they will not clobber us first and then say, "We cannot come in there to help you."

I have been told by the distinguished manager of the bill that the President called upon these agencies to assist. That is fine; but so far, of course, we have not seen the light at the end of the tunnel.

The fact remains that a lot of this we should know beforehand. After all, this is the Congress of the United States. We are the ones who appropriate the money. Why should all this be kept in the dark?

What we are saying here, all we are saying in this bill, is that they should make plans for reconversion when they are going to close down the base.

There is another element in this bill that I think raises certain complexities, that I intend to discuss with my colleague at the proper time. But the fact still remains that this is planning before the act takes place, and that is what we need.

Everybody knows that at the end of Vietnam we had to close down some of our bases. We had to make some readjustments. The only sad thing is that we have had 1,963 bases all over the world and the only ones they close are those in the United States of America.

I have said to the Department time and time again, "You have an African desk, you have an Asian desk, you have a European desk, it is about time you had an American desk."

So they cannot close a foreign base. We have 125 bases and more in Japan, and they do not dare close one down. Why? Because under our agreement we have to engage Japanese nationals in those bases, and that is the reason why we are not closing the bases abroad.

I hope that does take place. I do not say this with any vengeance. I do not want to incriminate anyone. There is no acrimony in what I say. All I am saying here is that I know of this happening, we have not lived through it yet, and it is about time the Senate stood up and said, "Will you begin to do something about this before the damage is done?"

That is all this bill seeks to do.

We are going to be told that the President of the United States has called upon all these agencies to come in and help. But it is a little late. This bill is not going to help us in Rhode Island a great deal. We have lost 80 percent of our facilities. They have thrown 5,000 people out of work. I get letters from wives who say, "My husband is only 42 years old. He has worked 15 years. He cannot get retirement. Where does he go? Where will he get a job?"

Now we are beginning to wake up; and, you know, the funny thing is, they may not understand it down there in the White House, but a family eats every day. Every day; and when a man loses his job, he cannot wait a week, 2 weeks, or 3 weeks.

The other day I was going home, and at the terminal here I met a man working down at Foster Point, which they closed down. He shook hands with me, and said, "Senator PASTORE, I am glad for all you tried to do. I appreciate that you cannot do all of this alone."

He said: "I have just come back from Jacksonville, where they have moved our facilities out of Rhode Island. They don't have housing in Mayport. They don't have housing in Charleston. They don't have housing in Norfolk. So Jacksonville is where they are sending us."

We have spent a million dollars in Rhode Island to build housing for our Navy personnel.

On April 17 this announcement was made. On the first of April I visited Quonset Point. I went to the barracks of the enlisted men. That is a $3 million installation. Half the job was completed. The other half was being worked on, and it is not completed yet. A $3 million program, and there they are. They have engaged themselves in a $3 million program for the rehabilitation of the barracks. Talk about waste. There is waste.

The man I met in the terminal said: "PASTORE, I have just come back from Jacksonville. They gave me $4,000 to go down there and look for a job. I could not pick a job. They wanted to pay me 50 cents more an hour than I was getting in Rhode Island. But I could not pick out a house. It cost $48,000. I have four children. I can't afford to buy a house like that. I don't know how long I am going to be in Jacksonville. But I like to live in Rhode Island."

They wanted to pay him $40,000; yet they could have kept him in Rhode Island.

Did they put the destroyers in mothballs? No. They took 36 destroyers out of Newport. Where do Senators think they sent them? They sent them to Norfolk, Virginia; they sent them to Charleston; and they put some in Mayport. That is what we are up against.

I spoke on the floor of the Senate—I talked myself blue in the face—fighting for that new atomic aircraft carrier.

What do you think Bill Moorer said to me when he came to my office? He said, "We have to get out of there because the carriers are too big." Imagine that, after I put them there for him.

I struggled on the floor of the Senate to convince the Senator from Minnesota (Mr. MONDALE) that his amendment was not proper. They came and told me after I had done it, "The water is not deep enough."

I said, "Where have you been up to now? It would only cost you $10 million to deepen the channel."

We even asked them to use Mayport. Mayport is not inland. And Cherry Point is landlocked. What is wrong with keeping it in Rhode Island?

They said, "We haven't got the money."

That is my story. That is why I like the thrust of the bill, even though it may be too late for Rhode Island.

I thank the Senator from South Dakota for giving me the opportunity to tell my story.

Mr. PELL. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. I yield.

Mr. PELL. What compounds the problem and is particularly unconscionable is not just the amount, the $18 million, but the fact that it was the largest amount of money the Department of Defense had spent on military construction in Rhode Island since 1950.

Why?

In my view it was because it was an election year, 1972. I have stated and reiterated in my State and here in the Senate my sense of shock, or of wrongdoing at what was done. While manipulating the dates of base closing announcements may be within the laws of the political game, but doubling the amount of money for base construction because it is an election year, while knowing that the bases will be closed, is unconscionable. That is the thing I believe the American people should not accept, and I wish we were more concerned about it.

Mr. McGOVERN. I appreciate the Senator's underscoring that point. His colleague (Mr. PASTORE) referred a moment ago to the seeming preference for closing down bases in this country as against the bases that we operate abroad. I suspect that one of the reasons is that they know they will get less response from Senators and Representatives and the affected communities when they close down the bases abroad. But it does make one wonder, under the circumstances, why facilities that are very similar to installations we have maintained here at home are sometimes kept open and the installations here in the United States are closed down.

Mr. GOLDWATER. Mr. President, will the Senator from South Dakota yield for a question?

Mr. McGOVERN. I yield.

Mr. GOLDWATER. Referring to the remarks made earlier, that the Senator's amendment requires 6 months' notice, my personal feeling is that it could well be 1 year. I know that there are a number of bases being considered now. I cannot name one and I am pretty close to the Pentagon; but I think that 1 year would be ample time. I am sure that they would know what the economic situation will be and what the political situation is going to be.

We in the West have had the same problem as you gentlemen on the eastern seaboard have had. They close bases in my State and I learn about it when I read the newspapers. I would see no reason at all why every base being considered today for closing down could not be made known to Members of Congress.

Mr. McGOVERN. If the Senator will yield on that point, the bill does make such a provision. The way the language reads is that there will be a minimum of 6 months, but where the Department of Defense has under consideration the closing of an installation, it must immediately inform the affected community even if it is 2 or 5 years in the future. It would cover the concern the Senator so well expresses.

Mr. GOLDWATER. I am very glad the Senator is doing this, but I have been trying, ever since I came to the Senate, to get the Pentagon to let us know the day they begin consideration of closing any base. I maintain, and I believe that I am right, that if we could have as much as 1 year so as to be able to go to the chambers of commerce, the business community, the labor community, I am certain that in 1 year's time we could work out the economic problem. But when we open up the morning newspaper and it says that one of our big bases has been closed that morning, that is a horse of another color. So I am very glad that the Senator is doing what he is doing.

Mr. McGOVERN. I thank the Senator for his help.

Mr. PASTORE. If the Senator will yield, and I may enter this dialog, the fact still remains that not only will we know it is going to happen but at the same time they should tell us what land will be given up. So then a State or local community can begin to make plans as to how they will utilize it.

In Rhode Island, for instance, there is the matter of the piers, and the matter of the warehouses at Coddington Cove and over at Quonset Point, where they want to retain 500 acres which is really the heart of any planning for reconversion.

When we ask them, they say, "Well, the hospital is on it. The commissary is on it." So, for that reason—and, there is a golf course on there, too—let us not forget that. It is a golf course that has a railroad siding on it—I repeat, a railroad siding. But we cannot get them to make up their minds exactly what they will do. So they dilly-dally back and forth. Our Governor has been down here already a dozen times. We have had some wonderful plans on the part of the State administration, but nothing seems to happen.

Take only this morning, as I came down on the 7:20 plane I happened to read a Rhode Island newspaper and they claim that the State expects a slowup in Newport and it will take some 5 to 8 years for the Aquidneck Island to rebound fairly from the economic blow of the Navy cutback there.

Why should that happen? Here we are, going up to an almost 12 percent unemployment on that island. Why should it be?

Mr. SYMINGTON. Mr. President, will the Senator from South Dakota yield?

Mr. McGOVERN. I yield.

Mr. SYMINGTON. At the request of the distinguished Senators from Massachusetts and Rhode Island, we held hearings in the Armed Services Committee for several days and we got to the question of closing the bases in Rhode Island and Massachusetts. For the life of me, listening to the testimony, it was difficult to understand how the Department of Defense could take the position they are taking with respect to Americans working in this country and being forced out of their jobs, at the same time that they were asking for millions and millions of dollars to reinforce the bases abroad.

In addition to that, the whole ploy, we might say, of the Navy Department today is that they want to be able to operate better from these shores, to be able to work independent from foreign shores more than ever before. That, for example, is the core of the argument for the new Trident submarine acceleration. Under these circumstances, they seem to be arguing against themselves.

Mr. McGOVERN. I certainly agree with the Senator. As he knows, we have been trying, off and on for more than 10 years, to get some kind of conversion planning capability in the Department of Defense. They do have a little office there that they call the Office of Economic Adjustment; but we discovered, when we lost an installation a few years ago, an ordnance depot in the western part of the State, that they were so understaffed in that office and were of such a low grade in terms of the great power of the Department of Defense that they had little or no effectiveness at all in assisting us.

So what this amendment attempts to do is to upgrade that office and give it some stature and a modest budget, to enable it to hire first-rate people at higher grade levels and, if necessary, go outside the Department of Defense and contract with private consultants in this field so that they will be in a position months in advance of the closing down of an installation to give the communities some extra advice, to help them with market surveys, to help them find alternative sources of employment.

My amendment—if I may summarize it very quickly, because we are short on time—would require, first of all, a minimum of 180 days' advance notice of the closing down of any installation. But where the Department of Defense has knowledge longer than that, where they have serious thoughts about the closing down of an installation 6 months or a year or 2 years ahead of time, they would be obligated at that point to so advise the Office of Economic Adjustment in the Defense Department, which in turn would be obligated immediately to consult with the affected community.

In that way, the Senator from Rhode Island would not learn about the loss of

a major installation when he read the newspapers. He would know it a minimum of 6 months ahead of time—perhaps a year or 2—and that community would have the benefit of experts in this field to work with the community to try to find alternative sources of employment. It might even give the Senator a chance to make a case against the closing of a base.

Mr. PASTORE. We have been talking about base closings up to now, but I note that section 704 has to do with negotiating contracts with defense contractors. I am afraid that there are so many complexities within that section, that it raises so many problems or so many imponderables, that it might weaken the thrust of everything we have said here so far to have that remain in the bill.

I wonder whether the Senator would consider deleting that part of the bill. I do not think that responsibility should be left up to the contractor when he negotiates for a defense contract, that he has to do planning for reconversion. I think that is a State and community responsibility. Otherwise, I am afraid that too many people will be in the act.

Mr. McGOVERN. The Senator has expressed that concern to me. I am primarily concerned at this moment with the problem of base closings, which is a direct involvement of the U.S. Government.

I think the point the Senator is making is that it is considerably more complex and difficult to deal with the problems of private contractors. There are varying degrees of competence and capacity within those private plants to carry out conversion plans.

In view of the high opinion I have of the Senator's knowledge of this field, if he thinks it would complicate the adoption of this amendment to leave in section 704, which has to do with private defense contractors, I would be willing to delete that portion.

Mr. PASTORE. I appreciate that. That matter, of course, could be studied later. I do not expect the Senator from South Dakota to forsake that part of his measure.

Mr. McGOVERN. I think it is something that we might bring up at a later date, after further study.

Mr. PASTORE. I hope the Senator would do that, because I am afraid that too many questions can arise.

Mr. McGOVERN. Mr. President, I modify my amendment by striking out section 704, which begins on the last line of page 3 and ends on the second line of page 5.

The PRESIDING OFFICER. Is there objection to the Senator so modifying his amendment? The Chair hears none, and it is so ordered.

The modified amendment is as follows:

On page 26, between lines 22 and 23, insert a new title as follows:

"TITLE VII—ECONOMIC ADJUSTMENT

"SEC. 701. (a) There is hereby established within the Department of Defense an office to be known as the Office of Economic Adjustment (hereinafter in this section referred to as the 'Office'). It shall be the function of the Office to carry out the provisions of this title, under the supervision and control of the Secretary of Defense, and to carry out such other functions as the Secretary of Defense may prescribe.

"(b) There shall be at the head of the Office an officer to be known as the Director of the Office of Economic Adjustment (hereinafter in this section referred to as the 'Director'). The Director shall be appointed by the Secretary of Defense.

"SEC. 702. There are authorized to be appropriated during the fiscal year ending June 30, 1974, the sum of $50,000,000 for use by the Office to assist workers, business firms, and communities which may suffer economic damage as a consequence of reduced expenditure on any defense facility or installation or on any defense project or program being carried out by any business entity. Any amount appropriated under authority of this section shall be in addition to any other funds appropriated to carry out the functions of the Office.

"SEC. 703. (a) At least one hundred and eighty days prior to the closing or substantial curtailment of any military camp, post, station, base, yard, or other installation in the United States employing five hundred or more people, or at any earlier time when the consideration of such action begins, the Secretary of Defense shall notify the Director of such contemplated action.

"(b) Upon such notification, the Office shall immediately begin consulting with appropriate local, State, and Federal officials and with private individuals in communities which may be affected by such closing or curtailment. The Office shall further begin preparing recommendations for alternative productive uses of facilities no longer required by the Department of Defense on such installation and for employment opportunities to replace those to be lost when the installation is closed or curtailed. Such recommendations shall include proposed specific action which should be taken by other agencies of the Federal Government as well as suggestions for actions to be taken by local and State agencies and private groups and individuals.

"(c) Recommendations developed as provided by subsection (b) of this section shall be completed no later than the date on which the military installation is scheduled to be closed or curtailed.

"(d) At the request of appropriate local officials, the Office shall assist in the implementation of economic adjustment plans by providing expert and technical advice and information and by coordinating such plans with other appropriate Federal agencies.

"SEC. 704. In performing the duties assigned by this title, the Office is authorized to—

"(1) employ on a temporary basis, or contract with, private firms or individuals with expertise which may be helpful in finding solutions to specific economic adjustment problems, and

"(2) secure the assistance of other Federal agencies, including the Economic Development Administration, the Department of Commerce, and the Department of Labor, which administer economic development programs or conduct activities which might utilize the facilities or employ the manpower that becomes surplus to the needs of the Department of Defense."

On page 26, line 23, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII".

Renumber sections 701 through 703 as sections 801 through 803, respectively.

Mr. McGOVERN. That has the effect, Mr. President, of relating this amendment entirely to the matter of Federal installations—naval bases, air stations, Army fields, or anything that could be described as a defense installation.

As it is now modified, the amendment would not relate to private contracts—that is, contracts with private defense suppliers. That is an important problem, and it is one that I hope we can get to at a later date.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. McGOVERN. I reserve the remainder of my time.

Mr. PELL. Mr. President, will the Senator yield me a few minutes?

Mr. McGOVERN. Mr. President, let me say to the manager of the bill, Senator THURMOND, that we had a quorum call earlier which I took entirely out of my time.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from Rhode Island and 5 minutes to the distinguished Senator from South Dakota.

Mr. McGOVERN. I appreciate that. I thank the Senator.

Mr. PELL. I thank the Senator from South Carolina.

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

Mr. McGOVERN. I yield.

Mr. PASTORE. Mr. President, I ask unanimous consent to have placed in the RECORD the article that appeared in the Providence Journal-Bulletin.

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

[From the Providence Journal Bulletin, Sept. 24, 1973]

STATE EXPECTS SLOW UPTURN AT NEWPORT

It will take from 5 to 8 years for Aquidneck Island to rebound fully from the economic blow of Navy cutbacks there, the state administration estimates in a renewed bid for federal help to ease the recovery.

A detailed response just filed by Governor Noel to previously announced Pentagon plans for releasing Newport Navy Base lands for civilian development, reiterates his demand that more property be turned over and that some proposed restrictions be lifted.

Much of the mid-September document prepared by the governor's Economic Renewal Coordinating Center retraces his opposition to such ideas as requiring emergency Navy storage capacity at the Melville oil tank farm and federal retention of acreage and buildings at Coddington Cove that the state wants for profitable use of destroyer piers there.

But the 48-page report also refines state requests for a number of other Navy installations and gives the most detailed picture yet of the economic adversity confronting Newport, Middletown and Portsmouth.

Predicting "severe initial and long-term effects" because of their heavy dependence on the Navy, the report states "it will be a long-term process to develop substitutes needed to generate comparable economic well-being."

At least 5,000 new jobs are required to reach this "parity," it declared. The three communities themselves cannot do it "unless provided with major federal and state assistance and unless they approach the problems on a regional basis," it observed.

Because of space and access limitations, "industrial development will largely be restricted to firms attracted by the island's unique locations, its water resources and its surplus labor," according to the report.

It pin-pointed tourism and recreation as the principal focus, "with emphasis to be placed on Bicentennial-related developments in order to enhance the area's permanent ability to draw tourists."

However, even this resource is "restricted by its seasonability and the small size of the island," it was noted. A suggestion here was that some excess Navy housing be converted into retirement communities as a year-around supplement.

The report was skeptical of much of the housing being turned over by the Navy. The 186-unit Brenton Village and the 119-unit Naval Gardens were best-suited for demolition, with the sites being used, respectively, for possible condominium and commercial-industrial use, it said.

The 440-unit Anchorage apartments in Middletown are in better condition, but would have to be thinned out to reduce their density, which is almost three times what the town zoning code allows, it was said.

The report called on the Navy to turn over the 58-unit Cloyne Court at Coasters Harbor and the adjacent Enlisted Men's Club (whose "clientele," it noted, "is being practically eliminated" by the Navy's cutbacks) for private ownership. The same should be done with 140 units on Coddington Highway and a 15-acre area at Coggeshall Farms should be given Middletown for construction of an elementary school, the report said.

It also proposed transfer to Newport of an 80-by-300 foot strip adjacent to the city sewer plant on Connell Highway for plant expansion and of three acres just north of gate 4 on Coddington Highway for commercial or light industry development. The state could help by adding two acres from its traffic circle there to the plot, it said.

Reviewing the litany of economic problems brought on by the Navy moves, the report claimed 484 base civilian jobs and up to 6,300 others indirectly in the three communities would be lost; that the island payroll would be reduced by 25 per cent; that its approximately 6 per cent unemployment rate could rise to from 16 to 22 per cent; that 25 per cent of its small businesses would go under; that 12 per cent of its housing units would be vacated with no ready market for them, and that schools on which money is still owed face closure, while a reduction in federal impacted area funds would cut Middletown's education revenue alone by 12 per cent.

In discussing use of the Melville oil tank farm and the Coddington Cove piers, the report talked of such possible developments as an oil refinery at the former site and a "free port" for assembly of imported parts, a shipbuilding and repair facility or a "mini-steel plant" at the latter. But it said more land and fewer restrictions than the Navy was proposing is a necessity in any case.

It also scored again proposed cutting of the Defense Highway, the so-called "Burma Road," for Navy purposes, saying this is an integral connection for joint development of the Melville and Coddington Cove areas.

"The recommendations of the state of Rhode Island," a general summary explained, "calls for a re-configuration of the lands excessed to maximize the opportunities for development and reconversions as commensurate with the economic impact sustained by the residents and communities of Aquidneck Island by the military cutbacks.

The proposal will provide an economically viable and marketable package. "It is noted that these modifications will only bring the number of job positions back to parity and they are justifiable if the possibility of economic conversion is to occur."

Mr. PELL. Mr. President, as a resident of Aquidneck Island, whose plight is portrayed in this newspaper article, I share the anguish of my senior colleague over what has happened to my area.

I, too, have seen in my city of Newport houses being built after the decision was made by the Government to move away the people for whom they were being built. It is this kind of waste and this kind of nonplanning which, I believe, bring discredit to the Defense Department.

Some of the destroyers stationed at Newport have been moved to Norfolk, Mayport, and Charleston, and some have been moved to Athens, Greece.

In regard to the pending amendment, the question is whether or not the Office of Economic Adjustment, as presently constituted, does any good. My experience in our State, which has been more acutely affected than any other State, by recent base-closing decisions, has been that this Office, with all the good will in the world, simply has not been able to do the job. The reason is this: The man who heads it and very ably, Mr. Sheehan, is one of about 159 GS–17's in the Defense Department. He assigns a man at a GS–15 level to handle the problem in Rhode Island. Are they able to stand up to the various Assistant Secretaries, to the generals, to the admirals, and all the other bosses in the Defense Department? No. They cannot do so, because they work for the same people they are supposed to argue against and reverse.

My view is that there is a good reason for this office, and I probably will support the amendment of the Senator from South Dakota, but I believe this office should not be in the Department of Defense. It should be moved out of the Department of Defense and to either the Department of Commerce or the GSA.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement as to the salaries and the budget of this little office.

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

FACT SHEET ON OFFICE OF ECONOMIC ADJUSTMENT

The Office of Economic Adjustment of the Department of Defense is in the office of the Assistant Secretary of Defense for Installations and Logistics.

The office is headed by a director (GS–17) who is one of 159 GS–17's in the Department of Defense. The office has a staff of 33 persons (22 professionals and 11 clerical and secretarial).

The budget of the office is as follows:

	Fiscal year—		
	1972	1973	1974
Salaries	$293,000	$340,000	$351,000
Travel	21,000	25,000	30,000
Other	3,000	5,000	5,000
Total	317,000	370,000	386,000

The grade structure is as follows:

GS–17	1
GS–16	3
GS–15	9
GS–14	3
GS–13	2
GS–9	1

In addition, the professional staff includes the following military personnel: AF colonel 1; Navy commander, 1; Army lieutenant colonel, 1.

Mr. PELL. When we look at the salaries and the budget of this office, when we realize that in 1972, 1973, and 1974 the increases have barely kept up with the cost of living in the country, we realize that this little office, with its tiny number of personnel and low-ranking status in the executive branch, is totally unequipped to do the job. If this amendment is not adopted and the office is left in its present tiny state, I believe we would be better off with no Office of Economic Adjustment than to have it as it is today.

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

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the proposed amendment dealing with economic adjustment for defense impacted communities basically makes mandatory by legislation functions and duties already being pursued by administrative regulation and Presidential memorandum.

Section 701 simply confirms the existence of an already existing agency within the Department of Defense and already "under the supervision and control of the Secretary of Defense."

Section 702 represents a substantial departure from previous practice.

To date, all moneys used to assist communities and individuals hurt by defense program changes have been provided out of existing resources of Federal departments and agencies possessing the programs to render the necessary aid. Only salaries and associated overhead for staff of the Office of Economic Adjustment have been provided by the Department of Defense.

The providing of funds directly to the Department of Defense for assisting of communities will likely cause other Federal departments and agencies to use their funds for other than defense-impacted communities.

I wonder if the distinguished Senator would agree to modify section 702 as suggested?

Mr. McGOVERN. Yes. I read the Senator's language. I do not see where it substantially changes the impact of what we are trying to do with the amendment. So I would be perfectly willing to modify my amendment as suggested by the Senator.

I would underscore the fact that the $50 million in additional funds is designed to upgrade and strengthen the capacity of the existing office of the Department of Defense. It does not create a new office, as the Senator has properly said, but it does have for its purpose the upgrading and strengthening of that office so that they can do more than write letters of sympathy to communities that have lost installations.

The legislative history I want to be made here if this amendment is agreed to and enacted into law is that we expect the Office of Economic Adjustment and the Department of Defense to perform

an important function and that is not only to give advance notice of closings of military installations but to work with the best people they can find to provide assistance and guidance to communities that are faced with these transitional problems.

The PRESIDING OFFICER. Will the Senator restate his proposed modification?

Mr. THURMOND. I send to the desk section 702 as rewritten.

The PRESIDING OFFICER. The modification will be stated.

The assistant legislative clerk read as follows:

"SEC. 702. There are authorized to be appropriated during the fiscal year ending June 30, 1974, the sum of $50,000,000 for the use by the Office to assist communities which the Office determines may suffer substantial economic damage as a consequence of Defense program changes. Any amount appropriated under authority of this section shall be used to supplement funds available to defense impacted communities from other Federal departments and agencies and shall be available until expended.

The PRESIDING OFFICER. Is there objection to the amendment being so modified?

The Chair hears no objection, and the amendment is so modified.

The amendment, as modified, is as follows:

On page 26, between lines 22 and 23, insert a new title was follows:

"TITLE VII—ECONOMIC ADJUSTMENT

"SEC. 701. (a) There is hereby established within the Department of Defense an office to be known as the Office of Economic Adjustment (hereinafter in this section referred to as the 'Office'). It shall be the function of the Office to carry out the provisions of this title, under the supervision and control of the Secretary of Defense, and to carry out such other functions as the Secretary of Defense may prescribe.

"(b) There shall be at the head of the Office an officer to be known as the Director of the Office of Economic Adjustment (hereinafter in this section referred to as the 'Director'). The Director shall be appointed by the Secretary of Defense.

"SEC. 702. There are authorized to be appropriated during the fiscal year ending June 30, 1974, the sum of $50,000,000 for use by the Office to assist communities which the Office determines may suffer substantial economic damage as a consequence of Defense program changes. Any amount appropriated under authority of this section shall be used to supplement funds available to defense impacted communities from other Federal departments and agencies and shall be available until expended.

"SEC. 703 (a) At least one hundred and eighty days prior to the closing or substantial curtailment of any military camp, post, station, base, yard, or other installation in the United States employing five hundred or more people, or at any earlier time when the consideration of such action begins, the Secretary of Defense shall notify the Director of such contemplated action.

"(b) Upon such notifications, the Office shall immediately begin consulting with appropriate local, State, and Federal officials and with private individuals in communities which may be affected by such closing or curtailment. The Office shall further begin preparing recommendations for alternative productive uses of facilities no longer required by the Department of Defense on such installation and for employment opportunities to replace those to be lost when the installation is closed or curtailed. Such recommendations shall include proposed specific action which should be taken by other agencies of the Federal Government as well as suggestions for actions to be taken by local and State agencies and private groups and individuals.

"(c) Recommendations developed as provided by subsection (b) of this section shall be completed no later than the date on which the military installation is scheduled to be closed or curtailed.

"(d) At the request of appropriate local officials, the Office shall assist in the implementation of economic adjustment plans by providing expert and technical advice and information and by coordinating such plans with other appropriate Federal agencies.

"SEC. 704. In performing the duties assigned by this title, the Office is authorized to—

"(1) employ on temporary basis, or contract with, private firms or individuals with expertise which may be helpful in finding solutions to specific economic adjustment problems, and

"(2) secure the assistance of other Federal agencies, including the Economic Development Administration, the Department of Commerce, and the Department of Labor, which administer economic development programs or conduct activities which might utilize the facilities or employ the manpower that becomes surplus to the needs of the Department of Defense."

On page 26, line 23, strike out "TITLE VII" and insert in lieu thereof "TITLE VIII".

Renumber sections 701 through 703 as sections 801 through 803, respectively.

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

Mr. THURMOND. I yield.

Mr. McGOVERN. I ask unanimous consent that the names of the following Senators be added as cosponsors of this amendment: Senators MANSFIELD, PASTORE, HUMPHREY, and BAYH.

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

Mr. THURMOND. Mr. President, does the record show that section 704 has been stricken, as was requested by the Senator from Rhode Island? If not, I move that that be done.

The PRESIDING OFFICER. The Chair is advised that that has been done.

Mr. THURMOND. Mr. President, I can fully appreciate the hardship of these communities which have had installations closed. It has been a hardship on them and I am sure everyone connected with the Department of Defense understands that. For instance, in my State of South Carolina alone DOD action since May 1970 has had the following adverse impact on the Charleston area:

The closure of five industries and job cutbacks at two others between May 1970 and February 1972, amounting to a loss of 5,870 civilian jobs.

As a result of DOD's February 18, 1972 announcement, the loss of 442 civilian jobs and 1,715 military personnel at the Charleston Naval Shipyard.

As a result of DOD's April 17, 1973 announcement, the loss of 148 civilian jobs by July 1974 due to the reduction to inactive status of the Charleston Army Depot and the loss of 684 military personnel and 83 civilian jobs by June 1974 due to transfers from the Charleston Air Force Base.

I wish to tell my good friends who are interested in this amendment that they are not the only ones suffering from actions of the Department of Defense. I think we have to realize, however, that now that the war is over the Department of Defense does have to make cuts. Not only have installations and personnel been reduced in my State but also they have been reduced in many other States. Reductions have been made all over the world. It has to be done because there is no longer the need, as existed during the war.

I would like to say further in defense of the administration that on March 4, 1970, the President established the Interagency Economic Adjustment Committee. He stated at that time:

On March 4, 1970, I established the Interagency Economic Adjustment Committee to assist individuals and communities that suffer adverse economic impacts as a result of necessary Defense realignments. I now intend to strengthen the Committee's efforts and expand its membership.

The Secretary of Defense will continue to chair the Committee. As members, each of you will be cooperating closely with the Chairman to discharge fully the Committee's important responsibilities . . .

I know that I can count on your full energies in this vital effort.

RICHARD NIXON.

That was an excerpt from the White House memorandum dated April 16, 1973, to the heads of the following 17 Federal departments.

I wish to bring out that those 17 departments are now working with the Department of Defense on this matter. They are as follows:

MEMBER AGENCIES OF ECONOMIC ADJUSTMENT COMMITTEE

1. Department of Defense: Department of the Army, Department of the Navy, Department of the Air Force, Defense Supply Agency.
2. Department of the Interior.
3. Department of Agriculture.
4. Department of Commerce.
5. Department of Labor.
6. Department of Health, Education, and Welfare.
7. Department of Housing and Urban Development.
8. Department of Transportation.
9. Department of Justice.
10. General Services Administration.
11. Small Business Administration.
12. Arms Control and Disarmament Agency.
13. Civil Service Commission.
14. Office of Management and Budget.
15. Council of Economic Advisors.
16. Domestic Council.
17. Environmental Protection Agency.

So the President of the United States has designated the Department of Defense to coordinate the efforts and the Secretary of Defense to act as chairman of this committee to take the steps necessary to alleviate as much as possible the hardship caused by the closing of installations in various States.

I might state that in this report that was just made, there are 28 adversely impacted communities, with economic analyses included in this report. So not only those that I have mentioned here today, but 28 others have been mentioned in this report. These are: Fairbanks, Alas-

ka; Imperial Beach Calif.; Long Beach, Calif.; Novato, Calif.,; Oxnard, Calif.; San Francisco, Calif.; Pasadena, Calif.; Key West, Fla.; Orlando, Fla.; Albany, Ga.; Brunswick, Ga.; Topeka, Kans.; Bainbridge, Md.; Barnstable County, Mass.; Boston, Mass.; Chelsea, Mass.; Chicopee, Mass.; St. Albans, N.Y.; Philadelphia, Pa.; Phoenixville, Pa.; Aguadilla, P.R.; Newport, R.I.; Quonset Point, R.I.; Charleston, S.C.; Laredo, Tex.; Mineral Wells, Tex.; Ogden, Utah.

So, Mr. President, we can see that many communities have been affected by the steps taken in order to reduce defense expenditures that has been brought about by the closing of installations.

I am very pleased that the Department of Defense has taken steps to alleviate as much as possible the burdens brought upon these communities by the closing of these installations. I am glad the President has brought into play all the agencies of Government I have referred to, to help as much as possible. I am very sympathetic to the problem.

The Senator from South Dakota and both Senators from Rhode Island appeared before the committee. We can understand the situation with which they were confronted. If anything reasonable can be done, I would like to see it done.

In view of the fact that the distinguished Senator has modified section 702 and, upon the recommendation of the Senator from Rhode Island, has stricken section 704, we are now willing to take this amendment to conference and give it support at that time.

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

Mr. THURMOND. I yield.

Mr. PASTORE. I thank the Senator. I would hope in conference he would use his influence and prestige to see that it is maintained in the bill, to the best of his ability.

Mr. THURMOND. I thank the Senator.

Mr. President, I am ready to yield back my time.

Mr. McGOVERN. Mr. President, I want to add, in closing, that I appreciate very much the contribution by the two Senators from Rhode Island and specifically the modification suggested by the senior Senator from Rhode Island (Mr. PASTORE). I also think the modification the Senator from South Carolina (Mr. THURMOND) has proposed does not weaken the bill or the amendment in any way, and I am very pleased that he is willing to accept the amendment.

I think that obviates the need for a rollcall, and on that basis, I am willing to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from South Dakota, as modified.

The amendment, as modified, was agreed to.

ORDER FOR ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 9 o'clock tomorrow morning.

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

ORDER FOR RECOGNITION OF SENATORS AND RESUMPTION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, immediately after the two leaders or their designees have been recognized under the standing order, the distinguished Senator from Idaho (Mr. CHURCH) be recognized for not to exceed 15 minutes, and that he be followed by the junior Senator from West Virginia for not to exceed 15 minutes, after which the Senate resume consideration of the unfinished business.

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

CHANGE IN ORDER OF CONSIDERING AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of the very distinguished Senator from South Carolina, it has become necessary to make a change in the schedule in one respect during the remainder of this afternoon, and I would ask unanimous consent that the Cannon amendment on the F–14 go over until tomorrow and that the Senate proceed to the consideration of that amendment immediately after the special orders for the recognition of Senators previously agreed to, which would mean that the Senate would begin at about 9:30 a.m. tomorrow on the Cannon amendment dealing with the F–14.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Would this be agreeable to the distinguished Senator from South Carolina?

Mr. THURMOND. Mr. President, we have no objection.

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

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Mansfield amendment, which had earlier been scheduled for tomorrow morning, go over until Wednesday morning, and that upon resumption of the unfinished business on Wednesday morning the Senate proceed to the consideration of the Mansfield amendment.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if it is agreeable with the distinguished Senator from South Carolina, that on the two Hartke amendments, Nos. 494 and 501, there be a time limitation on each of 1½ hours, instead of 2 hours as previously agreed to.

Mr. THURMOND. Mr. President, we have no objections.

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

Mr. GOLDWATER. Mr. President, as the distinguished whip knows, I have an amendment pertaining to the M–16. I could take that up at any time, and I would need very little time to explain it, not over a half hour, to be equally divided.

Mr. ROBERT C. BYRD. Mr. President, may I make an inquiry of the Chair? We have already a time limitation on that amendment. Do we not?

The PRESIDING OFFICER. Two hours.

Mr. ROBERT C. BYRD. Could we cut that limitation?

I ask unanimous consent, with the concurrence of the distinguished Senator from Arizona (Mr. GOLDWATER) that the time on the amendment of Mr. GOLDWATER dealing with the M–16 rifle, be limited to 1 hour, equally divided, in accordance with the usual form.

Mr. GOLDWATER. It is perfectly all right with me. I would not need that much time.

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

Mr. ROBERT C. BYRD. I wonder if the distinguished Senator from Arizona would consent to bringing that amendment up today following disposition of the Stevens amendment, and in the alternative, if Mr. STEVENS does not call up his amendment today, then, following the disposition of the Eagleton amendment.

Mr. GOLDWATER. I would be very happy to do so.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that that be the order.

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

Mr. SYMINGTON. Mr. President, if the Senator would yield, did the Senator provide which of the Hartke amendments was going to be called up tonight?

Mr. ROBERT C. BYRD. I did not. The Senator from Indiana is not going to call up either one of his amendments tonight.

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

Mr. PELL. Mr. President, would the Senator from West Virginia have any idea when the last rollcall vote would be tonight?

Mr. ROBERT C. BYRD. Mr. President, the pending amendment is the Eagleton amendment. No time has begun to run on that amendment as yet, although there is a 1½ hour time limitation on that amendment, and I would assume that there will be a rollcall vote on it. After the disposition of that amendment, the Stevens amendment on housing allowances will be called up. In the alternative, if the Senator from Alaska (Mr. STEVENS) is not prepared to call up his amendment on housing allowances——

Mr. President, may we have order in the back of the Chamber?

The PRESIDING OFFICER. The Senate will be in order. The Senator from West Virginia may proceed.

Mr. ROBERT C. BYRD. Mr. President, in the alternative, if the Senator from Alaska (Mr. STEVENS) is not prepared to call up his amendment tonight, the Sen-

ate will then proceed to the consideration of an amendment by the Senator from Arizona dealing with the M–16 rifle, on which there is a 1-hour limitation of time.

If all time is consumed, that will mean, with 1½ hours on the Eagleton amendment and 1 hour on the Goldwater amendment plus 10 minutes by rollcall vote on the Eagleton amendment, and likely the possibility of a rollcall vote on the Goldwater amendment, that it would be sometime around 7 o'clock.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

Mr. ROBERT C. BYRD. Mr. President, as the schedule is now arranged, if all time is taken on the Cannon amendment, dealing with the F–14 on tomorrow morning, the time to begin running at about 9:30 a.m., that amendment would be disposed of around 11:30 a.m.

Under the previous order, the Senate will not proceed to take up the amendment on the Trident tomorrow until 1:30 p.m., part of which, if not all of which, time on tomorrow would be for debate in closed session, with an open session on that amendment to occur on Wednesday.

I ask unanimous consent, if it is agreeable with the distinguished Senator from South Carolina (Mr. THURMOND), that upon the disposition of the Cannon amendment on the F–14 tomorrow morning, the distinguished Senator from Indiana (Mr. HARTKE) be permitted to call up either of his two amendments, either 494 or 501, on each of which there is 1½ hours limitation of time.

I think that one of those amendments could be sandwiched in between the disposition of the F–14 amendment and the beginning of debate on the Trident amendment tomorrow.

Mr. THURMOND. Mr. President, we have no objection.

Mr. ROBERT C. BYRD. Mr. President, that would leave it up to the distinguished author of the amendment, the Senator from Indiana (Mr. HARTKE) as to which amendment he would prefer to call up.

Mr. THURMOND. Reserving the right to object, I would like the proviso that there be no rollcall vote between 12 noon tomorrow and 1:30 p.m., the time for the Republican luncheon.

Mr. ROBERT C. BYRD. Mr. President, could we delay that proviso at the moment? The leadership over here is going to work with the Senator in every way possible to see that that is done. I do not think that we should firm it up at the moment, however.

Mr. THURMOND. That is agreeable.

ORDER REDUCING TIME ON MANSFIELD AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the Mansfield amendment—and this has been cleared with the Senator from Montana—be 2 hours instead of 3 hours as originially ordered.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. THURMOND. Mr. President, reserving the right to object, I wonder if I might confer with the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Certainly. Mr. President, I ask unanimous consent that the time not be charged against the distinguished Senator from Missouri.

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

Mr. ROBERT C. BYRD. Mr. President, I will repeat the request and modify it.

I ask unanimous consent that the time on the Mansfield amendment be reduced to 2 hours instead of 3 hours, and that the Mansfield amendment be shifted to Wednesday morning, immediately after the opening remarks of the two leaders.

The PRESIDING OFFICER. Is there objection.

Mr. THURMOND. Mr. President, we have no objection.

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

Mr. ROBERT C. BYRD. I thank the Senator from Missouri for his usual patience and courtesy.

Mr. President, I ask unanimous consent that the time on the Jackson-Nunn amendment be limited to 2½ hours, to be equally divided, and that the time on any amendment thereto, debatable motion, or appeal be limited to 30 minutes, in accordance with the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. We have no objection.

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

Mr. ROBERT C. BYRD. I ask unanimous consent that debate on the Jackson-Nunn amendment begin to run immediately following the vote tomorrow afternoon on the override of the Presidential veto.

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 24, 1973, he presented to the President of the United States the following enrolled bills:

S. 1148. An act to provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes; and

S. 1636. An act to amend the International Economic Policy Act of 1972 to change the membership of the Council on International Economic Policy, and for other purposes.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The Senate continued with the consideration of the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation, for the Armed Forces, and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

The PRESIDING OFFICER. The Senate will now proceed to the consideration of the amendment by the Senator from Missouri (Mr. EAGLETON) relative to the XM–1 tank.

The clerk will read the amendment.

The assistant legislative clerk read the amendment (No. 530) as follows:

On page 19, between lines 17 and 18, insert the following:

SEC. 202. The Secretary of the Army shall take such measures as may be required to limit the program unit cost for the XM–1 tank to an amount not to exceed $730,000 based on the acquisition of a total number of units requested in the budget for the fiscal year beginning July 1, 1973. The program unit cost shall be computed on the basis of the fiscal year 1972 dollar value; and in determining the rate of price change for any period in connection with any cost estimate or cost analysis of the program, such rate may not exceed the rate of change reflected for the same period in the Wholesale Price Index for Manufactured Goods—Durable, seasonally adjusted, as published by the Bureau of Labor Statistics, United States Department of Labor.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator from Missouri (Mr. EAGLETON) that I took the liberty a little earlier today to cut down the time on the Eagleton amendment on the XM–1 tank, subject only to the approval of the author of the amendment. He could vitiate that agreement, if he wishes, in which case, the time limitation would still be 2 hours.

Mr. EAGLETON. Mr. President, out of an abundance of caution, I would prefer an hour to the side. It is my fervent hope that we can dispose of it in less time.

Mr. ROBERT C. BYRD. Very well, Then the previous order with respect to the Eagleton amendment would stand.

I announced at the time I made the unanimous-consent request to cut the time to 1½ hours that it was to be subject to the approval of the Senator from Missouri (Mr. EAGLETON).

Mr. EAGLETON. Mr. President, I yield myself such time as I may require.

Mr. President, debate on this year's defense authorization bill will undoubtedly follow a predictable course. We will hear arguments and counterarguments about our negotiating posture at the SALT talks—about this or that weapon system being absolutely essential to maintain our national security—about the manpower levels needed to maintain our defense.

But there is a serious problem affecting

our defense posture which should receive much more attention than it normally does in this era of inflation. In short, we are in grave danger of being priced out of our ability to provide America with an adequate defense.

This ominous prognosis is shared by prominent leaders within the defense establishment and well-known Defense Department antagonists alike. Air Force Chief of Staff Gen. George S. Brown recently issued one of the most troublesome assessments.

General Brown warns:

> We are going to be out of business if we don't find ways to cut costs. We simply can't go on spending the kind of money we are spending now.

As General Brown and others see it, either we find ways to drastically reduce the cost of acquiring and operating weapons systems, or we cut our defense in both quantity and quality to a dangerously low level.

Congress is now being severely criticized in some quarters for looking carefully at the defense budget with an eye toward reductions. But in some areas of defense spending waste is obvious—in others, policy considerations seem to justify cutbacks or even deletions.

Congress would be failing the taxpayers if some legitimate reductions could not be made in a budget request of over $20 billion. Certainly, the Armed Services Committee has again demonstrated concern for both the national defense and the taxpayers' dollar in making a number of responsible reductions in the administration's request.

But Congress must also fulfill the more difficult job of answering General Brown's call for help. We must help the Defense Department find ways to cut costs. And to do so we must offer encouragement to those within the Pentagon who seek change and innovation.

Over the long run, reductions such as we will undoubtedly make in this budget may encourage some innovative thought—after a boxer has been hit a few times he does learn to move his head. But in our current economic state, the Nation simply cannot wait for the bureaucracies of Government and industry to slowly adjust to the stark realities of a tight money market.

During his tenure as Deputy Secretary of Defense, David Packard did much to shake up the defense industries with a variety of cost-saving innovations. He adapted business techniques to Defense and made great progress during his short time in Government. One of the most successful Packard innovations was the "design-to-cost" concept.

The concept is officially embodied in DOD Directive 5000.1 which was issued in 1971. Design-to-cost is described in that directive as follows:

> Cost parameters shall be established which consider the cost of acquisition and ownership: discreet cost elements shall be translated into "design to" requirements. Practical tradeoffs shall be made between system readiness, capability or cost.

In plain English, Mr. Packard was trying to make cost a primary consideration in systems acquisition. The concept is a simple one: decide the cost goal and design to that cost; aim to purchase the least expensive system capable of doing the job well.

The design-to-cost concept, when backed by a resolve to stick to the establish cost goal, has an interesting and beneficial effect on the decisionmaking process. Most important is the element of cost tradeoffs during the developmental stages. According to Mr. Packard:

> The cost of developing and acquiring new weapons systems is more dependent on making practical trade-offs, between the stated operating requirements and the engineering design, than almost any other factor.

Mr. Packard, back in 1970, discussed cost tradeoffs in terms of the antecedent of the system we are dealing with today, the Main battle tank:

> We got into that same question (practical trade-offs) with the MBT-70, where the boys wanted everything but the kitchen sink on the tank. There are reasons why they might want these things, but when you got down and looked at it, there were some real opportunities to trade-off, when you got into the practical engineering design.

The Army never did make adequate tradeoffs on the original Main Battle Tank and, consequently, the price tag went up to the million dollar level. The result was an expensive tank that was so fancy its reliability was questionable. When Congress canceled the MBT-70/XM-803 program in 1971, over 10 years of tax investment went down the drain.

Congress' message to the Army in 1971 came from the House Appropriations Committee. The Army was told by that committee to "design a tank with far less sophistication, a tank that can be produced at about a third of the cost now estimated for the current design."

The current design back in 1971 was the XM-803, about a million dollars a tank. So the House Appropriations Committee said:

> We are scuttling the old tank program. We want you to design a tank and bring it in at a third of a million dollars.

The Army is now back from its drawing board with a new, less sophisticated tank concept which has a program unit cost of $713,000—approximately three-fourths of the cost of the canceled MBT-70. So the Army has already exceeded the one-third goal set by the House Committee.

Nonetheless, Mr. President, some contend that the committee's goal was unrealistically low, and I feel the Army should be commended for making a good effort to comply with Congress desires. Still, the cost figure provided by the Army is at the very threshold of cost-effectiveness. If that price is exceeded, Congress would be better off sending the Army back to the drawing board once again.

The amendment I propose today has a twofold purpose: First, to fulfill Congress special responsibility that the new main battle tank stay within strict cost parameters, and second, to give a boost to those at the Pentagon who are trying hard to make "design-to-cost" a working principle of systems acquisition.

The concept advocated today should not divide this body along traditional lines. My amendment does not take issue with the Army's stated requirement for the XM-1 tank. The XM-1 program is fresh from the drawing board, and although I still have serious doubts about the need for a new tank considering the diminished role of the tank on the modern battlefield, my amendment does not question the Army's requirement.

In addition, the amendment not only accepts the Army's cost figure, it provides a safety margin of $17,000 per tank—an additional amount I hope will not be necessary. As I have previously stated, I believe that a program unit cost of $730,000 is at the absolute threshold of cost-effectiveness, and I am confident that that is the position Congress as a whole takes as a result of the history of the old tank program.

My amendment uses the "program unit cost" designation. This is the same category as the "program acquisition cost" indicator, but broken down to the unit level. This category is reflected in the selected acquisition report which is received by the Armed Services Committee from DOD on a quarterly basis.

I will not go into the formula for computing the program unit cost except to say that it includes R.D.T. & E., procurement and production costs for the program—everything except postproduction maintenance and manpower.

The Army has provided me with a detailed description of the method used to compute the program unit cost. If there is any question concerning this cost figure, this memorandum will make the exact method a part of the legislative history.

It should be noted that the Army's memorandum also shows the method of estimating escalated—or inflated—dollars. This explanation would not pertain to my amendment since I have used the fiscal 1972 dollar value as a base, with the wholesale price index rate for manufactured goods—durable as the rate-of-change indicator. It should also be noted that the term "program acquisition cost" is the same as "program unit cost" in the Army's memorandum.

Mr. President, with those explanations and qualifications, I ask unanimous consent that the Army's memorandum—fact sheet of September 20, 1973, be granted in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. EAGLETON. Mr. President, my amendment refers to the "total number of units requested in the budget for the fiscal year beginning July 1, 1973" as the basis for the computation of the program unit cost. That number has now been declassified and it is 3,312.

Let me emphasize that there is nothing magic about the quantity of tanks DOD has requested in this year's budget. According to the Army, 3,312 is the figure arrived at by the XM-1 task force. It is the number approved by the Joint Chiefs and the Secretary of Defense, and I think it would be safe to say that it is an optimum defense requirement.

I stress the word optimum because I want to make clear that adoption of my

amendment would not imply acceptance of the 3,312 figure as the congressionally authorized quantity. That figure is simply a base to compute the program unit cost.

If the number of tanks required or approved in the future changes, then obviously the program unit cost would change as well. But that is all part of the cost tradeoff decisionmaking my amendment seeks to impose during the life of the XM–1 program—a life that could be ended at any time by congressional action.

The oversight and authorization role of the Armed Services Committee—and of Congress as a whole—will not be altered in any way if my amendment is adopted. In fact, that role will be enhanced by establishing a statutory benchmark by which to measure the Army's performance in meeting the cost goals.

The "design-to-cost" formula I propose today for the XM–1 program has been devised especially for that program. The same formula, using the all-inclusive "program unit cost" designation, may be unrealistic for systems whose R. & D. costs are difficult to estimate.

But the XM–1 program has the advantage of more than 10 years of research and development on the MBT–70. According to the Army, actual components of the MBT–70 will be provided to the two competing contractors. These contractors will also take maximum advantage of the technology of the canceled main battle tank program.

As a demonstration of the stability of the R. & D. factor for the XM–1, the Army has informed me that the three companies who bid for the prototype contract all come within 3 percent of the Army's own estimate.

Needless to say, the Army is confident that it can deliver a tank for $713,000. Gen. Robert Baer, project manager of the XM–1, expressed this resolve in testimony before the Armed Services Committee when he said:

We are going to reduce complexity and end up with a tank that has a price tag that this country or the Congress or the Department of Defense can afford.

The XM–1 tank is nothing more than a concept today. There is great opportunity for the Army, or industry, or both, to add on to that concept, and add on to the price. We have seen the add-on process occur so often in the past. I frankly do not think Congress wants to get burned again with a reincarnation of Main Battle Tank No. 1.

In a March 1973 report entitled "Reducing Costs of Defense Systems Acquisition," a group of America's top businessmen strongly advocated the "design-to-cost" concept and lamented the fact that great lipservice was being paid to it at DOD, but little actual follow through was evident. They found too little incentive to stick to a cost ceiling. This study, known as the Bucy Report, recommended strongly that cost considerations become "a continuing force throughout the program life, from initial conceptual planning through the entire production phase."

The amendment I propose today is intended to give just that type of continuing force for the life of the XM–1 program. Its adoption by Congress will provide the surest guarantee that the incentive to cut costs will permeate all levels of Army decisionmaking on the XM–1.

I recognize that adoption of my amendment would represent a new congressional approach to defense spending. But I hope this body will recognize that alternatives to the meat ax are badly needed.

There is waste in the defense budget; very few would deny that. But if Congress is going to reduce that waste it must work with the Pentagon to encourage innovation. There is no better place to begin than with one of the few weapons systems Congress has canceled—the Main Battle Tank. I urge my colleagues to support my effort by using our legislative power to assure that "cost discipline," rather than "cost overrun," becomes the descriptive motto of the XM–1 program.

EXHIBIT 1

FACT SHEET

20 September 1973.

Subject: Cost Estimates for XM1 Tank Program.

Purpose. To provide information on cost estimates for the XM1 tank program to Mr. Bryan Atwood, Staff Assistant to Senator Eagleton as requested.

FACTS

1. The Army cost estimating techniques is a building block type process operating under costing definitions contained in AR 37–18 and the Development Concept Paper (DCP).

2. The starting point is the amount of money estimated to be necessary for the manufacturing process. To determine the hardware cost the penalty for operating the production line at less than the optimum wartime rate and the systems management must be added. For the XM1 these figures are estimated to be:

	Millions
Manufacturing	$1615.6
Low Production Penalty	15.9
Systems Management	50.3
	1681.8

Dividing by the number of tanks to be produced gives the Average Unit Hardware Cost of $507,790 in constant 1972 dollars. If this cost is escalated to the money in use the year of purchase of each tank, the cost totaled and this total divided by the number of tanks purchased this total becomes $669,867 per tank. Escalation factors are computed by DOD Comptroller and must be used for all costing.

3. AR 37–18's definition of hardware cost is slightly different than that used in the DCP in that a portion of the Military Personnel, Army (MPA) people cost and Operation and Maintenance, Army (O&MA) must also be charged against the individual tank. These figures are $1.8M MPA and $0.6M O&MA. These added to the above costs and divided by 3312 tanks gives $508,454 and $670,592 in FY 72 and escalated dollars respectively.

4. Rollaway cost includes tooling so the estimated tooling cost of $75M must be added to the DCP hardware costs and this divided by 3312 tanks These costs then are $530,435 and $696,498 in FY 72 and escalated dollars respectively.

5. Rollaway cost is equal to and called production cost in the DCP but AR 37–18 requires the remaining MPA and O&MA cost to be charged to get a production cost. These figures as before are $1.8M and $0.6M respectively. When added to the above cost and divided to obtain unit cost the results are $531,159 and $697,222 in FY 72 and escalated dollars respectively.

6. To the DCP production cost all nonrecurring Procurement-Equipment and Materiel-Army (PEMA) cost must be added to obtain the weapon system cost. For the XM1 these costs are estimated to be as follows:

	Million
Data and documents	$1.1
Training aids	34.0
Common support equipment	19.0
Peculiar support equipment	5.4
Production base support	44.8
	104.3

Also added are Recurring PEMA Cost as follows:

	Million
Data and documents	$0.9
Remaining systems management	74.7
First destination transportation	6.5
Production base support	1.8
	83.9

When these two are added to totals above and the sum divided by 3312 tanks the weapon costs become $587,258 and $767,814 in FY 72 and escalated dollars respectively.

7. Procurmeent costs includes all of the above plus the cost of initial provisioning, that is the costs of all of the initial spare parts which must be bought and placed in stock throughout the areas where the tanks are to be used. This cost for the XM1 program is estimated to be $45.3M. When this amount is added in and the total divided by 3312 tanks the quotient becomes $600,936 in FY 72 dollars which escalates to $784,420.

8. Program acquisition cost is all of the above plus each tank's pro rate share of the $371.1 million Research and Development bill. These costs then are $712,983 and $920,743 in FY 72 and escalated dollars respectively.

Mr. McINTYRE. Mr. President, I want, first of all, to say to the distinguished junior Senator from Missouri that many of the points he raises relate to what we would all like to achieve. I know that to one who works in the field of research and development, as I do, and sees the cost of the weapons systems—B–1 bombers about $45 million each; tanks, at $500,000 production cost per unit; giant new submarines, at a program cost of $1,300 million; and the completion of the CVN–70 *Nimitz* class carriers at a cost of $1 billion.

We agree with the Senator from Missouri that every effort must be made by the military to bend itself to try to bring these weapons systems figures into some sort of reasonableness, even though we all understand how difficult that is in these days of escalation of prices and costs.

Mr. President, I should like to speak in opposition to the amendment offered by Senator EAGLETON, in which he would place a statutory ceiling on the program unit cost of the Army's new tank, the XM–1.

In his remarks, he has talked about the design to cost concept—that is, to design a weapons system to a cost figure. We on the Armed Services Committee agree. This is a concept that Secretary Packard left with us, and he was one of the best men I ever had a chance to work with on

the Armed Services Committee. But I express to the Senator from Missouri that this is only a concept. This is a goal to be attained, a result hopefully to be achieved. Despite the fine statement and the arguments of the Senator from Missouri, we cannot lock this into law. We cannot put this into concrete and expect that it is going to be a practical solution.

I state at the outset that I do not believe any Senator agrees more than I do that the cost of these weapons systems must be controlled. I do not believe, however, that this proposed legislation is the means by which controls should be implemented. In fact, it is my opinion that through the committee process, and the annual authorization and appropriation review by Congress, there are adequate opportunities for Congress to maintain control over the cost of any weapons system. In fact, two of the more notable defense programs—the MBT–70 tank and the Cheyenne helicopter—were terminated by Congress during the annual review process.

I pay a particular accolade to the work of the distinguished junior Senator from Missouri so far as the main battle tank is concerned. We were working on this tank in conjunction with the West German Republic. It had approached the million-dollar figure in unit cost.

I agree with the distinguished Senator from Missouri that we are not saying "no" as often as we should. We have reports, we have SARS—selected acquisition reports—that come to us on a quarterly basis; and the staffs of the Armed Services Committee and the Appropriations Committee, in the House and the Senate, take a hard look at these. We do have a process that involves a review of these escalating figures.

With respect to the establishment of a legislative ceiling on the cost of development and procurement of a weapon system, let me explain why I am opposed to this particular amendment.

First, the amendment would require the Secretary of the Army to take measures as required to limit the program unit cost to an amount not to exceed $730,000 in fiscal year 1972 dollars.

The review process already implemented by the Secretary of Defense requires the Secretary of the Army to maintain a production unit cost ceiling on the XM–1 tank program of $507,000 in fiscal year 1972 dollars subject to a complete program reevaluation if the amount goes even $1 over this ceiling.

Let me pause to explain what we are talking about in a production unit cost as opposed to a program unit cost. When we talk about a program unit cost, we are lumping, as I am sure the Senator from Missouri knows, all the research and development costs that went into finally getting this weapons system into a position so that we could ask for bids. That is what the overall cost per aircraft, per tank, would be. When we talk about production unit costs, we are talking about bids that come back in. We will buy so many tanks at so much per tank.

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

Mr. McINTYRE. I yield.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. McINTYRE. Mr. President, the Senate Armed Services Committee monitors this activity closely, and, in fact, the committee receives quarterly reports on the progress of this as well as other programs. So, it would appear that the language of this amendment would not significantly add to the existing controls on the program cost.

I might point out that the difference between the program unit cost ceiling discussed in the amendment and the production unit cost of $507,000 mentioned previously is primarily due to the amortization of the development cost over the quantity of tanks currently planned by the Army as a requirement. This brings up a second point in the proposed amendment that I should like to mention. The Army's comparative estimate of a program unit cost is only $713,000. Senator EAGLETON in his amendment has apparently arbitrarily added $17,000 per tank to the unit cost of this tank. In my opinion, Congress should not legalize what would constitute an anticipated overrun. We have enough problems with covering actual overruns. The committee monitors the cost to the Army's best estimate; and if the Army knows that it has an overrun allowable by law, it would make the committee's job that much harder to contain cost growth on this program.

We must keep in mind that the program unit cost ceiling assumes that the research and development cost would be amortized over a fixed quantity of tanks. If Congress decided after analysis that the Army's planned quantity of tanks were for any reason not completely required and the development costs were then amortized over a lesser quantity of tanks, the program unit price would automatically increase. What is expected to be done at that time if there is legislation to keep the unit cost at a fixed ceiling? In other words, any unit price is quantity related. The buy we make has a great deal to do with that unit price. This amendment would not take into account a reduction in quantity.

I know it may sound hopeful that I could even mention a possible reduction in quantity, but during the debate on the Cheyenne helicopter, which was a tank-killing weapon system—and we are now working on a new attack helicopter—there were some admissions by the Army generals that perhaps we would not need as many tanks if we had all these attack helicopters. So it is possible that a quantity reduction would take place, and that would make this amendment a very unstable piece of legislation.

I might point out also that this amendment is silent on what should be done if the program unit cost should exceed $730,000. One possibility is that the law would have to be amended, and this may not be possible if an increase is to be authorized when the Congress is not in session. The could complicate legal contractual relationships. The amendment does not provide for this or any other course of action which could be taken.

The means of establishing how the $730,000 unit cost is determined is very important in reaching any conclusions on this suggested legislation, and the amendment is also silent on that point. For instance, it could be interpreted that the only way to arrive at an average unit cost is to average the costs after all the tanks have been purchased, which would render the amendment meaningless. It might also be interpreted that the intent is that the first tank purchased will average $730,000, but as everyone realizes, if all of the development costs were applied to the first tank, then the unit price would be astronomical. If the determination is to be made that the unit price is to be estimated as the program progresses, then we are back to our normal review process, and the Congress can consider this as we are now doing on an annual basis.

The XM–1 program is in the advanced development stage. Two contractors—General Motors and Chrysler—were awarded competitive prototype contracts in June 1973. These will be completed and competitively tested during the 3-year period ending June 1976. Each contract identifies a production unit price goal of $507,000, which serves the purpose of emphasizing the importance of cost in addition to technical and other approaches which will determine the winner of the competition.

During this 3-year perio of advanced development, many significant technical changes will occur because of this early stage of development as is normal in all major weapon systems development programs. The prototype that each contractor produces, therefore, will be markedly different from each contractor's initial design. These many changes have a direct effect on cost and cannot be predicted with any degree of competence. It is at the end of this 3-year period of advanced development when tanks have been produced and tested that a basis then exists for determining estimated costs to complete the development of the tank and then approve it for production.

The quarterly reports to Congress which are routinely submitted for every major weapon system in engineering development or production provides a positive means for the Congress to oversee the progress made during the engineering development phase. These reports would point up any problem which could result in significant cost increases, and the Congress could then take appropriate steps to direct a change in the program or even termination if necessary. The annual review of the Department of Defense budget provides another opportunity to consider progress to date and authorization and appropriation of funds to proceed with production if the Congress should consider it necessary.

Mr. President, the amendment if approved could establish a precedent which would be much more far-reaching than the XM–1 program. It would interfere and interrupt the ordinary process of research and devolopment and production and impose a redundant constraint which would seriously complicate the effective management of the

weapon system's acquisition program. Current controls by the Department of Defense and the Congress of the programs of various military departments are adequate.

Mr. President, I realize that this is a difficult situation where I am basically in agreement with the objective of controlling the cost of weapon systems, but this amendment is not the way to accomplish this purpose. Therefore, I would ask my colleagues to reject this amendment. The committee will conduct its surveillance over each weapon system on a continuing basis as well as when it is presented to Congress in the annual budget request.

Mr. THURMOND. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, this amendment attempts to legislate the cost management of the Army's XM–1 tank program by establishing a statutory cost ceiling on development and production of the new tank.

The author proposes to establish a program ceiling of $730,000 per tank, based on 1972 dollars. Presently, the Army estimates the program unit cost for the tank in 1972 dollars will be $713,000.

Mr. President, the amendment ignores the fact that the Army tank is a research and development program, unknowns are dealt with in research and development programs. The eventual and exact cost is unknown, it may be more or less than current estimate. The Army is not buying a known product; it is building a complex machine which will have components added and taken away during the development period.

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

Mr. THURMOND. I yield on the Senator's time.

Mr. EAGLETON. The Senator said it may cost more and it may cost less, that it is a developmental tank. I wish to ask the Senator how far up can this tank go before it becomes noncost effective?

Mr. THURMOND. That depends entirely on what happens between now and the time the prototypes have been built; and it would depend on the number of tanks we buy.

Mr. EAGLETON. The amendment is written in 1972 dollars. I will rephrase my question predicated on a constant dollar value, that takes into account, one, the base line 1972 dollar and, two, 3,312 tanks. How much beyond $173,000 per tank is the Senator prepared to go before he considers the tank to be noncost effective?

Mr. THURMOND. That is a question that I think it would be unwise for anyone at this time to attempt to answer, for this reason. Suppose the Army achieved a great breakthrough on some particular facet on the tank, something they thought should go into that tank to save the lives of Army soldiers in the future. Are they going to refuse to put it in because it might cost $10,000 or $25,000? I think the Senator is asking a question which at this time it would be unreasonable for anyone to attempt to answer.

Mr. EAGLETON. The Defense Department itself found with respect to the MBT that the cost became too great. There was even consideration given at one time to putting air-conditioning in the tank. They thought that luxurious, but even without air-conditioning it got to $1 million. Would $1 million be the Senator's outside limit?

Mr. THURMOND. The Army cancelled that program. They canceled the program with the German Government to build the tank. They eliminated some additions, but even then the program was high and it was cancelled. They started on a new tank.

I was in Fort Knox last fall and went over this tank and the program, and I was very much impressed. They are building a simple tank and one they feel will not have so many complex devices in it and will meet the needs of the occasion and be within a reasonable cost.

No one at this time can tell exactly what that tank will cost because they do not know what the value of the dollar will be then. We do not know how many tanks will be built and we cannot project how much it should cost. The Army estimated $713,000.

Mr. EAGLETON. I shall not interrupt the Senator further but the Senator does trouble me when he talks about this tank being built at Fort Knox.

Mr. THURMOND. It is not being built there. The plans are being made there.

Mr. EAGLETON. That is where what little gold we have left is stored.

Mr. THURMOND. The Senator is correct. Some of that gold is at Fort Knox but I do not think it will go into these tanks unless it is first returned to Washington and converted to silver dollars, and into iron and then into the tanks.

The Senate should not write into laws rules directing the management of the tank or other procurement programs. Each year Congress has an opportunity to approve or disapprove the program both in authorization and appropriation procedures. Why should the Senate support allowance of a $17,000 margin of increased cost per tank?

The distinguished Senator from New Hampshire brought out that point. Why should Congress tell the Army now that we will tolerate that much excess? We want to keep the cost down as much as possible. If we buy 3,000 of these tanks and the cost goes up $17,000 per tank, the total extra cost for 3,000 tanks could be $51 million more than the present estimate. How was $730,000 per tank arrived at? What is sacred about it?

On the other hand, allowing a $17,000 margin on $730,000 per unit program gives the Army about a 0.05 percent of the cost in which to operate.

Flexibility is needed in a development program. Some technical breakthrough might develop and the Army could not apply it because of the cost limitation. One invention leads to another and one improvement leads to another. It is important that we maintain flexibility.

This amendment also would inhibit the Army's management responsibilities in that unwise decisions may be forced upon the program managers simply to achieve cost objectives.

Procurement requirements change so it is difficult to fix at this time, 5 or 6 years before production, the definite number of tanks needed.

We could make a great mistake. We want our men fighting on the battlefield to have the best tank possible, and as development occurs and goes along, if a few dollars more can be added to give them a better tank and save American lives who would stand and say, "No, let us not do it."

If more tanks are needed, the unit cost goes down; if less are needed, the unit cost goes up. This amendment is trying to legislate the price of a tank we will be buying in the 1980's and 1990's.

The Senate should reject this amendment as unwise and unnecessary.

Mr. McINTYRE. Mr. President, let me say to the distinguished Senator from Missouri, as I previously said, I do sympathize with what he is trying to do, but if he will remember, in July of 1976 there will be a selection by the Army of a winning contract, a development contract. That will be completed in October of 1979, by the Defense System Acquisition Review Council. In July of 1976 this review will establish the final value per unit cost against which trade-offs between performance and cost will be made—speed versus late, whatever it happens to be. So in attempting to set a figure now, which the Senator's amendment would do, it would only be in the way and will have to be amended or repealed or deleted. So that the Senator's amendment would really serve no purpose, as I tried to explain in my remarks.

I know Members of the Senate wonder if we do have control over these weapons systems, but we do have. As I have said, we are not saying "No" enough; we are not coming down hard enough.

So when the Senator asked my colleague, who is a pillar of strength in the committee, a question, he was talking about something that the R. & D. Subcommittee is interested in.

We had General Lucas before us after the B–1 fiasco. After they said everything was hunky-dory in April, in July they came in and said, "We are in trouble." The B–1 bomber has a figure, on a program unit cost, of admittedly about $55 million per aircraft, and a production unit cost of $45 million. We put the very question that the Senator asked of my distinguished colleague to the Secretary. We said, "Mr. Secretary, when does this aircraft become cost ineffective?" And the Secretary, on cross-examination, admitted that we were getting close to it on the B–1.

So it was an apt question that the Senator put. If it went on to $1 million, it would be cost ineffective, and we would wash it out.

But with all due credit to this amendment, we can do the job better. This amendment will only get in the way. We agree 100 percent with the Senator on the concept that we have to do a better job in the Armed Services Committee, and the Armed Forces have to do a better and better job on these weapons systems.

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

We are not terribly far apart on this amendment. About 90 percent of what the distinguished Senators from New Hampshire and South Carolina have said has a common thread, although it may well be that when we come to a vote, one of us here present will vote "yes" and at least two will vote "no."

We all agree that there should be a greater system of cost control and cost analysis within the Department of Defense. It is not just three Senators on the floor of the Senate who are in agreement on that. As I said, the Chief of Staff of the Air Force has spoken on cost overruns and cost ineffectiveness.

It was the former Deputy Secretary of Defense David Packard who conceived of this design-to-cost concept. The Senator says, "Let us not put that into law." I say it will be of inestimable help to the Armed Services Committee to put it into law and hold the Pentagon's feet to the fire.

If this were one of the most sophisticated, glamourous, and vaguely defined weapons systems, then it might not lend itself to any cost-effective or design-to-cost concept, as would be the case with some of the more glamourous ones that were mentioned by the Senator from New Hampshire. He could have added the AWACS system to his list. That system may be another boondoggle down the road. We debated that system on the floor of the Senate on Saturday. AWACS seems to be so new in thrust and so untried that probably it would not lend itself to the design-to-cost concept, nor would it lend itself to the amendment being offered on the floor. But that is not the case with the XM–1. There is nothing very new about the concept of a tank. They have been around for a great deal of time, I guess as far back as World War I, when Colonel McCormick of the Chicago Tribune claimed to be its inventor, and the Russians claimed to be the inventors. The colonel went to his grave feeling that he was the inventor of the tank, and I assume the Russians went to their grave feeling likewise.

We have the recent history of the MBT–70—one of the few systems that the Pentagon dropped—which is relevant to this debate. Back in 1965 the cost of the MBT–70 was $350,000. By 1967 it had increased to $520,000. By 1969 it was $720,000. Late in 1969, when Secretary Packard said he wanted more accurate figures, it turned out that it was more than $850,000.

Then Secretary Packard ordered that the tank be redesigned and be reduced from a cost of $850,000 to $600,000. What was the cost when the order was to reduce it? It went from $850,000 to $1 million. They reduced it by taking off all the excess items. I think they left the treads on, and they got the cost up to $1 million after getting a stripped-down Pinto economy tank.

So I think this is a classic case—it is perhaps the classic case—with this remarkable antecedent history on tank development, for us to impose some limits.

The $713,000 figure is not mine. This is what we got out of the Defense Department as to what they could deliver it for. Fear not about inflation costs insofar as the amendment is concerned, because we have built in a provision to take care of inflation. We keep it at constant dollars. We are talking about 1972 dollars, and everything that grows therefrom goes back to that base. So there is no inflation factor to worry about.

I added $17,000. I am sorry I did. That is about a 2-percent increase. I put that in, to use their jargon, as a Pentagon fudgefactor, realizing that the Department is seldom close to the mark. I figured I would give them 2 percent to play with. There is still a fellow over there who wants to put an air conditioner in the tank. So I gave them $17,000 to play around with.

I am thinking now that I should have cut out the fudge factor. I was too generous. I am sorry for that, but I was trying to pick a figure that under all circumstances we could live with, because it is my fear here and now, if this amendment is defeated, that a year from now, when the same bill reaches the floor, the cost of the tank will be considerably over $730,000, and 2 years from now it will be even higher. I predict that in 1976 it will be even higher, possibly $1 million, and then they will want to go into production.

After investing all this into R. & D.—they put $300 million into the MBT–70, and that all went down the drain—they are going to put several million dollars into this tank, and they are going to be determined to produce a tank.

Bear in mind that this is a badge of honor. An admiral has to have an aircraft carrier. He cannot be an admiral unless he sits on one, and the Navy has to have 15 of them. An Air Force general has to have a B–1 aircraft. That is his indicia of honor. And ground commanders will want a tank because Pershing had tanks, Eisenhower had tanks, and they have to have tanks.

Mr. President, they will want to produce this baby, whatever the cost and regardless of the good intentions of the Armed Services Committee. The pressures will be enormous. They will say: "We have put $300 million into research, and we have put x number of dollars into research on this one. Let us have a tank. You give an admiral his air carrier. You have got to give us a tank. We cannot be treated as second class military citizens."

Unless we put some kind of control on this now, it will soon be beyond our control. It is too late after all of the investment for R. & D. has been made, hundreds of millions of dollars, to say that we want it redesigned. The Army has already ignored the recommendations of Congress.

The Appropriations Committee of the House of Representatives said: "You design us a tank for $333,000, and we will allow it." And, after a not ungenerous committee recommended that amount, they are already over two and one half times what the House of Representatives directed.

There is no greater support than we can give to the Senator from New Hampshire as a crutch then the design-to-cost ceiling I propose. He can then say to them: "Boys, it is $713,000 or, as Senator Eagleton in a fit of generosity said, $730,000. You cannot go over that. And if you do, you have to give us a good explanation why it is over, the same as you should have given us a good explanation as to why the MBT–70 went clear out of sight and off the drawing board."

Unlike many other systems, this is a weapon which deals with a rather commonplace military weapon with a long history that is similar to its grandmother, the MBT–70, and its mother the XM–803. It is the same tank, but it has a different number. It is the same line of history from 1963 to 1973.

This is one program that should be reduced to what Deputy Secretary of Defense Packard called design-to-cost. I think that it would be a wholesome warning to the Defense Department that Congress is very serious about this matter.

I reiterate, we are not even attempting to strike this out of the budget. We are only taking the Pentagon at its own word. That is not too much to expect. We are asking them what it would cost. They said $713,000. We say: "Well, we will take you at your word. Bring in a tank at that price." It should not be too much to ask them to live up to it. It should be of great value to the Armed Services Committee at some future time if they had this legislative crutch on which to lean.

Mr. President, I would be happy to yield back the remainder of my time if that is the desire of those who oppose the amendment.

Mr. President, I will retain the remainder of my time, since I want to have the yeas and nays.

The PRESIDING OFFICER. A quorum can be called after the debate.

Mr. McINTYRE. Mr. President, I must say that the amendment of the Senator from Missouri is premature. In my opening remarks in rebuttal, I indicated that the Secretary of the Army is currently operating at a unit production cost of $575,000 per tank. To come up with a figure of $731,000 per unit and per program cost is to ask us to look ahead 3 years. We just cannot tell what the research, development, testing, and evaluation programs will run into.

Perhaps the best thing would be to take a look 3 years hence when the equipment competition will have been cleared and the winner of the competition between Chrysler and General Motors will have been selected. Then, if we find that they have exceeded the firm figure of $575,000 per unit, and per production cost, the Senator from Missouri as well as the Senator from New Hampshire will be up in arms if they are over that figure in constant 1972 dollars.

As I said initially, I understand what the Senator from Missouri is struggling for. However, this is not the way to do it. It will only interfere with the natural way the Department of the Army, the Secretary of Defense, and the committees of the Senate and the House work.

The Senator's amendment, despite its good objectives and despite the best of intentions, will only clutter up the way and will only interfere with the orderly processes we try our best to maintain as

we deal with the Army and the rest of the military services of the Nation.

Mr. President, I have to ask my colleagues to reject the amendment as being premature and unnecessary, despite its good intentions.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time.

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

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

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

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

Mr. EAGLETON. 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 of the Senator from Missouri. 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 Florida (Mr. CHILES), thte Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. MANSFIELD), the Senator from Utah (Mr. Moss), the Senator from Mississippi (Mr. STENNIS), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Maryland (Mr. BEALL) are necessarily absent.

I further announce that the Senator from Vermont (Mr. AIKEN) and the Senator from Ohio (Mr. TAFT) are absent on official business.

I also announce that the Senator from Kansas (Mr. PEARSON) is absent because of illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 26, nays 60, as follows:

[No. 413 Leg.]

YEAS—26

Abourezk	Fulbright	Nelson
Bayh	Hart	Packwood
Brooke	Hartke	Pell
Burdick	Hathaway	Proxmire
Case	Huddleston	Ribicoff
Church	Kennedy	Saxbe
Clark	McGovern	Stevenson
Cranston	Mondale	Weicker
Eagleton	Muskie	

NAYS—60

Allen	Byrd, Harry F., Jr.	Dominick
Baker	Byrd, Robert C.	Eastland
Bartlett	Cannon	Ervin
Bennett	Cook	Fannin
Bentsen	Cotton	Fong
Bible	Curtis	Goldwater
Biden	Dole	Griffin
Brock	Domenici	Gurney
Buckley	Helms	Hansen
	Hollings	McClellan
	Hruska	McClure
	Hughes	McGee
	Humphrey	McIntyre
	Inouye	Montoya
	Jackson	Nunn
	Javits	Pastore
	Johnston	Percy
	Long	Randolph
	Magnuson	Roth
	Mathias	Schweiker
		Scott, Hugh
		Scott, William L.
		Sparkman
		Stafford
		Stevens
		Symington
		Talmadge
		Thurmond
		Tower
		Tunney
		Young

NOT VOTING—14

Aiken	Haskell	Pearson
Beall	Hatfield	Stennis
Bellmon	Mansfield	Taft
Chiles	Metcalf	Williams
Gravel	Moss	

So Mr. EAGLETON's amendment was rejected.

Mr. THURMOND. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. McINTYRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished Senator from Alaska (Mr. STEVENS) is not prepared to call up his amendment tonight. Therefore, I ask unanimous consent that that amendment be temporarily laid aside and remain in a temporarily laid-aside status until another day; that the Senate now proceed to the consideration of amendment No. 525 of the Senator from Arizona (Mr. GOLDWATER), which was to come at this time as the alternative; and that the amendment by Mr. GOLDWATER be followed by the amendment of the Senator from Wisconsin (Mr. PROXMIRE) on which there be a time limitation of 15 minutes, divided as follows: 10 minutes under the control of Mr. PROXMIRE and 5 minutes under the control of Mr. McINTYRE.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, may I ask the Senator from West Virginia, is it anticipated that there will be any more rollcall votes tonight?

Mr. ROBERT C. BYRD. That is what I am going to try to find out in a moment.

Now, Mr. President, would the Chair recognize the Senator from Arizona to call up his amendment and then I will ask the Senator to yield me 2 minutes.

AMENDMENT NO. 525

Mr. GOLDWATER. Mr. President, I call up my amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 19, line 2, strike out "$38,900,000" and insert in lieu thereof "$43,085,000".

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Arizona yield me 2 minutes?

Mr. GOLDWATER. I am happy to yield 2 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, may I ask the Senator from Arizona as to whether he intends to ask for the yeas and nays on his amendment, or whether anyone else intends to ask for the yeas and nays on that amendment?

Mr. GOLDWATER. I have no intention of asking for the yeas and nays.

Mr. ROBERT C. BYRD. Then the Senator will be agreeable to a voice vote; is that correct?

Mr. GOLDWATER. That is correct.

Mr. ROBERT C. BYRD. Mr. President, may I ask the able Senator from Wisconsin (Mr. PROXMIRE) the same question?

Mr. PROXMIRE. I will not ask for the yeas and nays.

Mr. ROBERT C. BYRD. Does any other Senator intend to ask for the yeas and nays on the Proxmire amendment?

May I ask Senators if any other Senator is ready to call up an amendment today following a voice vote on the Proxmire amendment?

Mr. President, there will be no more yea-and-nay votes tonight.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. The Senator from Idaho (Mr. CHURCH) and the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will each be recognized for not to exceed 15 minutes, in that order; after which the Senate will immediately proceed to the consideration of the Cannon amendment dealing with the F–14.

The Whip notice says that the Senate will proceed at 10 o'clock. The Senator from Nevada (Mr. CANNON) has called my attention to that error. The Senate will instead proceed at 9:30 a.m. tomorrow to consider the Cannon F–14 amendment.

In that regard, may I ask the Senator from Nevada, would he care to ask for the yeas and nays at this time?

Mr. CANNON. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the Cannon amendment.

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

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, following the vote on the F–14 amendment, the Senator from Indiana (Mr. HARTKE) will call up his amendment, No. 494, dealing with recomputation. There is a time limit thereon of 1½ hours. A yea-and-nay vote may occur thereon.

At 1:30 p.m. tomorrow, the Senate will take up the amendment dealing with the Trident. Debate will ensue thereon from 1:30 p.m. until 4 p.m. The vote on the Trident amendment will not occur at that time.

Mr. GOLDWATER. Mr. President, if the Senator will yield at that point, I thought that at 1:30 p.m. tomorrow we had an executive meeting to listen to Senator JACKSON.

Mr. ROBERT C. BYRD. If the Senator will allow me to proceed, my understanding is that, at 1:30 p.m., the distinguished Senator from Washington (Mr. JACKSON) will ask for an executive session during that 2½ hours. He needs only 1 second to accomplish that purpose. Assuming that he gets that 1 second to do so, which he undoubtedly will, there will then be a closed session, and the 2½ hours will be equally divided between Senators MCINTYRE and JACKSON during the closed session.

At 4 p.m. the Senate will go back into open session, the Trident amendment will be set aside, and debate will begin on the question of the override of the Presidential veto of the Small Business Administration bill, with a yea-and-nay vote, as provided under the Constitution, to occur thereon no later than 5 p.m.

Following the vote on the veto override, which I assume will be completed at about 5:10 or 5:15 p.m., the Senate will take up the Jackson-Nunn amendment which provides for U.S. troop financing by NATO countries under a 2½-hour limitation. That will take us up to about 7:30 p.m. or 8 p.m., with a yea-and-nay vote to occur thereon.

That takes care of the schedule for tomorrow. I thank all Senators for their courtesy and attention.

DEPARTMENT OF DEFENSE APPROPRIATION AUTHORIZATION ACT, 1974

The Senate continued with the consideration of the bill (H.R. 9286) to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test, and evaluation, for the Armed Forces and to prescribe the authorized personnel strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces, and the military training student loads, and for other purposes.

Mr. GOLDWATER. Mr. President, how much time do I have?

The PRESIDING OFFICER. Under the agreement, there is 1 hour on this amendment to be equally divided; therefore, the Senator has 30 minutes.

Mr. GOLDWATER. Mr. President, for the information of my colleagues, I have no desire to use more than 10 or 12 minutes, so the amendment of the Senator from Wisconsin (Mr. PROXMIRE) may come much faster than the 1 hour.

Mr. President, this amendment, on page 19, line 2, would strike out $38,900,000 and insert in lieu thereof $43,085,000. That is an increase of $4,085,000. Let me explain why I feel that increase to be necessary.

When the hearings were held before the Armed Services Committee, the Army did not request additional M–16 rifles because they thought, under their existing purchase, that they would have enough.

However, since that time, the Colt Manufacturing Co., which makes the M–16 rifles, has had a 19-week strike. Consequently, the Army has been denied deliveries. Also, the plant which Colt is building in Korea has not yet been completed. So deliveries from that country have not come about.

The increase results from the Army's decision to adopt a one-rifle—the M–16A1 concept—rather than the two-rifle—M–16A1, M–14—concept which prevailed throughout the Vietnam conflict.

Under the two-rifle concept, the M–14 rifle was retained in the continental U.S. units, which were not likely to be deployed, and in overseas units not likely to be engaged in combat operations.

The Army did not reclama the House or Senate reductions on the M–16A1 rifle because of its relative importance when considering the fact that we were at 93 percent of the revised AAO without this buy.

Prior to the strike, the fiscal year 1974 procurement was needed to maintain a warm production base through the fiscal year 1974 funded delivery period. However, in April 1973 a strike occurred at the Colt plant, the producer of the rifle, which shut down the line and had the effect of extending production into the fiscal year 1975 funded delivery period. This provided the Army an option to evaluate a fiscal year 1975 buy without a break in production to determine whether M–16A1 Rifles should be submitted in the fiscal year 1975 President's budget. In essence, the strike removed the urgency of reinstating the fiscal year 1974 buy to maintain the warm base and, therefore, the Army did not reclama the reduction.

The Army supports the reinstatement of 31,000 rifles because it will assist in maintaining the warm base and falls within the Army's cold base inventory authorization.

Mr. President, what we are trying to do here is to make sure that the production line at Colt remains warm, or remains open, so that the Army will be in a position to know what it will need when they come to that moment of decision in the 1975 budget.

As I mentioned, the Colt people are constructing a plant in Korea. They will have other factories around the world to take care of the growing demand for this rifle from other countries, not just the U.S. Army.

Mr. President, as I said, I do not intend to ask for a rollcall vote on this amendment. I would hope that the committee would recognize that the Army has had a change of mind, which was literally forcd on them by a strike over which thy had no control, and that the committee might deem it wise to accept this amendment.

Mr. THURMOND. Mr. President, we think this is a good amendment, and we are willing to accept it .

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. GOLDWATER. I yield back the remainder of my time.

Mr. THURMOND. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 19, between lines 17 and 18, insert a new section as follows:

SEC. 202. Notwithstanding any other provision of this Act, the total amount of funds authorized in this Act for independent research and development work, bid and proposal expenses, and other technical effort projects is hereby reduced by an amount equal to 50 per centum. The Secretary of Defense shall allocate the amount of the reduction in such manner as he deems appropriate.

Mr. PROXMIRE. I yield myself such time as I may require.

Mr. President, I first raised questions about the subject of independent research and development, known as I.R. & D., in 1969 during the Senate debate of the military authorization bill. I pointed out then that this little known program had grown from about $450 million in 1963 to over $600 million in 1968 and that it was virtually uncontrolled by the Department of Defense.

Several steps have been taken since 1969 by the Senate Armed Services Committee, by Congress, and by the Pentagon to gather additional information about I.R. & D. and to develop controls over it. I regret to report, however, that the costs of I.R. & D., after dropping off some, have resumed an upward trend and have risen precipitously in the past 2 years.

I have a table here, which I ask unanimous consent to have printed in the RECORD, showing the costs. They were intended to go down—that was the agreement, the understanding—but they have gone up to more than $700 million. The table illustrates the disturbing cost trend.

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

	Total I.R. & D. and bid and proposal expense (millions)	Percent of I.R. & D. and bid and proposal expense to defense sales of recipients
1968	$609	2.73
1969	675	3.00
1970	654	3.07
1971	619	3.16
1972	704	3.83

Note: Figures cover defense contractors which had $15,000,000 in annual auditable costs incurred, or which required 4,000 or more man-hours of DCAA direct audit effort. In fiscal year 1972, this included 77 major defense contractors, comprising 167 reporting divisions or operating groups.

Mr. PROXMIRE. In addition, the efforts to improve controls over the contents of I.R. & D. efforts of private contractors have produced disappointing results, at best.

For these reasons I believe Congress would do well to impose a strict ceiling over I.R. & D. expenditures. Setting a ceiling to cut the costs of the program was the approach I employed in 1969. The Senate approved a 20-percent cut in funds for the program that year, but the figure was drastically reduced in conference to only a 7-percent reduction. After an immediate decline in the costs of I.R. & D. the ceiling approach was abandoned in favor of tightening up the ground rules and imposing certain re-

strictions. I do not believe the second approach to the problem has worked. The recent increase in I.R. & D. costs has done much to persuade me that the only way to reduce the size of this program is to place a ceiling over it.

I have therefore submitted an amendment which would reduce the funds for I.R. & D. in this year's military authorization act by 50 percent.

It may be that a 50-percent cut does not go far enough. Indeed, I think a case can be made that this program is a backdoor boondoggle and ought to be eliminated altogether.

However, I have been discussing the question with the chairman of the Subcommittee on Research and Development of the Committee on Armed Services, the distinguished Senator from New Hampshire (Mr. McINTYRE). I have decided to withdraw the amendment with the understanding that we agree to a study by the General Accounting Office.

Instead of attempting to legislate on this complex matter during the present session of Congress, the Senator from New Hampshire and I have agreed to request an indepth investigation by GAO into the underlying assumptions and the overall justification of the I.R. & D. program as well as into the implementation of the current regulations. This study is to be completed and a report issued to the Senate Armed Services Committee in time for consideration of next year's military authorization bill.

I want to emphasize that I believe the Armed Services Committee and the Subcommittee on Research and Development have been doing an excellent job in trying to tighten up the controls over this program. I testified in the extensive and productive hearings conducted by Senator McINTYRE in 1970 and I have been working closely with him on this matter. It is reassuring to know that he is keeping an eye on the program and I am confident that when GAO completes its inquiry and all the facts are known appropriate action will be taken by the committee and by Congress.

Before ending the present discussion, I want to explain my reservations about I.R. & D. and why I believe a closer look at it is necessary. As I indicated earlier, I was flabbergasted to learn in 1969 that the Pentagon was picking up the bill for hundreds of millions of dollars in private contractors' research and development costs.

It needs to be stressed that these costs are almost entirely separate from the Pentagon's research and development program, known as research, development, testing and evaluation—R.D.T. & E. The Defense Department is spending about $8 billion in R.D.T. & E. and costs are scheduled to rise significantly next year. The I.R. & D. program must be distinguished from the R.D.T. & E. program. The $700 million which the Pentagon pays to private contractors for I.R. & D. is separate from the $8 billion which the Pentagon pays to private contractors for R.D.T. & E. This raises a basic question: Why do we need two separate programs within the Pentagon to sponsor research and development efforts by private contractors?

In addition to the fact that we have, in effect, to separate research and development programs being funded through the defense budget is the absence of the normal kinds of safeguards around I.R. & D. in contrast to R.D.T. & E. and other procurement efforts. I pointed out in 1969 that I.R. & D. costs: First, were not the subject of contracts or grants or other specific arrangements between the Government and defense firms; second, they did not need to bear any direct or even indirect relationship to any military or special need of the Government; and third, and they were not being controlled by the Government.

Rather than eliminating this expense, which I first proposed, or placing it under a ceiling, Congress has attempted to legislate tighter control,. The controls have not been effective and I.R. & D. costs have continued to rise. They have increased in dollar amounts and as a percentage of defense sales. This increase can be seen in the last column of the table I introduced a short while ago. The table shows that the ratio of I.R. & D. costs have risen from 2.73 percent of the recipients' defense sales to 3.83 percent of their sales, a 40-percent increase from 1968 to 1972. This means that I.R. & D., the least controlled form of procurement spending, is becoming a larger and larger share of defense business.

There may be a rational and acceptable explanation for this. But it causes me great concern at present because it appears that the I.R. & D. program is being used to prop up the sales of defense firms whose prime contract awards have declined in recent years. I do not believe that would be a proper use of I.R. & D. funds. It may very well be that defense firms need to be propped up. However, the I.R. & D. program is not the way to do it. If defense contractors need to be subsidized the final decision should be made by Congress after hearings and full debate. We ought not be propping up private corporations through back door methods such as the I.R. & D. program.

The possibility that contractors might be using I.R. & D. as a subsidy or substitute for prime contract awards is raised by the overall statistics as well as the figures relating to three major aerospace firms that have experienced great financial difficulties in the past several years: Litton Industries, Lockheed Aircraft Corp., and Grumman Aerospace Corp. In the case of each of the three firms defense sales declined from 1971 to 1972 while I.R. & D. costs increased or remained about the same. For example, Litton's I.R. & D. costs more than doubled, from $3.6 million to $7.8 million at the same time that its defense sales dropped from $548 million to $414 million.

I should add here that there seems to be some confusion about the overall costs of I.R. & D. The GAO report contains figures that are somewhat different and somewhat higher than the ones I have used. My figures come from the DCAA annual reports on the I.R. & D. program. GAO's figures, which are also contained in the Senate Armed Services Committee report, were apparently obtained from the Defense Department. The discrepancy in the GAO and DCAA figures may be due to the fact that GAO's figures include the item known as other technical effort—OTE—which is funded in a manner that is similar to the way I.R. & D. is funded and which has been considered as part of the I.R. & D. program in the past. If this is the case it raises the question of why DCAA does not include OTE costs in its annual report. I assume GAO will want to explore this matter in its next report.

My concern over the costs of this program is equaled by my concern over its content. Three years ago, in the fiscal year 1971 Military Procurement Authorization Act, Congress limited I.R. & D. expenditures to programs that could be shown to have a military benefit. Section 203 of Public Law 91-441 provides that funds shall not be made available for I.R. & D. unless the Secretary of Defense determines that the work for which payment is made has a potential relationship to a military function or operation. This requirement, which I fully support, represented a substantial improvement in the program, because previously there was no requirement that I.R. & D. efforts meet the test of military relevancy.

The question now is, do I.R. & D. efforts meet the test of relevancy as the law requires? There is evidence that they do not, that the law has not been effective, and that contractors are merely submitting detailed and attractive brochures which make it appear that proposed I.R. & D. efforts will have a potential military benefit. It is an easy matter to word I.R. & D. proposals to suggest a potential military benefit. We are all familiar with the techniques of brochuremanship which have been raised to a high state of fine art by aerospace firms in connection with other aspects of defense procurement. As a result, contracting officers may find themselves on weak ground if they try to disallow I.R. & D. proposals on grounds of irrelevancy. On the other hand, a good brochure is no guaranty of good results.

The fact is that the Pentagon has not demonstrated a willingness or capability for determining whether proposed I.R. & D. work is ever actually performed or whether such work benefits the Government. The recent GAO report, "Payments for Independent Research and Development and Bid and Proposal Expense" reveals the shortcomings of current procedures. GAO concludes in its report that—

> The potential military relationship provision of section 203 continues to be vague. As interpreted and applied by DOD, it has had no measurable effect on DOD's ceiling or on IR&D or B&P payments.

GAO goes on to say that it noted in the GAO April 1972, report that the language of section 203 did not provide criteria for determining when a project was considered to have a potential military relationship and that in the current review it was found that DOD had still not issued uniform criteria for determining relevancy.

The law provides that the Pentagon negotiate firm ceilings for I.R. & D. with

contractors who receive $2 million or more of I.R. & D. funds in the preceding year. Loopholes have also been carved into this provision. GAO reports that inconsistencies and other problems in developing and negotiating I.R. & D. and B. & P. agreements persist and that most agreements are not negotiated before costs are incurred. In one case cited by GAO an "advance" agreement was entered into only 6 weeks before the end of the year covered by the agreement.

The law provides that the Pentagon must technically evaluate each contractor's proposed I.R. & D. program. Again, the law has not been effective. According to GAO, the Defense Department has not provided the necessary guidance to specify how the technical quality rating will be recognized or how the contractor should be rewarded or penalized. GAO looked at the I.R. & D. programs of seven contractors. In three cases the Pentagon's records did not identify the effect, if any, that the technical evaluation had on the ceiling negotiated, nor were the contract negotiators able to identify or quantify the impact it had on the ceiling. For the other four contractors, the Pentagon's negotiator said the technical evaluation was considered but the change from the year before warranted neither an increase or a decrease in the contractor's program. That might have been an odd coincidence, but the implication in the GAO report is that the Government is going through the motions of making technical evaluations without knowing how to do them or without allowing them to influence any decisions. GAO concludes:

> There is little evidence that technical evaluations are adequately considered in negotiating ceilings or that they are used to motivate contractors to improve performance.

GAO does not recommend any changes in the law pending the result of several ongoing studies. But it should be pointed out that GAO in its study was not asked to review the desirability of I.R. & D. or whether it is in the national interest. It was only reviewing the Pentagon's implementation of the existing law.

Whether we ought to have an I.R. & D. program at all, and if so at what level of funding, is another and more basic question. This question has not been raised before. It needs to be confronted and there is no better time to face up to it than at present when concerted efforts are being made to hold down Federal spending and to trim the fat from the defense budget.

The evidence I have seen strongly suggests that the existing system of I.R. & D. payments amounts to a Pentagon subsidy of its major contractors. The I.R. & D. program allows contractors to get large sums from the Government—and several firms receive $30 million or more annually in I.R. & D. funds alone—to use as they see fit in developing new products, conducting their own research and development work, and otherwise enhancing their ability to obtain defense or commercial contracts.

Reimbursement for I.R. & D. comes through overhead charges on defense contracts. The costs of the I.R. & D. program cannot be found in any line item in the authorization or appropriation bills. The funds are the results of numerous add-ons to weapons contracts. But the add-ons cannot be seen individually. They are buried in the amounts budgeted for military procurement as a kind of surcharge or sales tax on top of the direct costs of individual contracts except that it is a sales tax that the Government pays.

Although the Pentagon may have paid millions of dollars for a private firm's I.R. & D. program, the Pentagon does not have the right to see the technical data developed under that program. The Government receives no license, patent, royalty, or other rights in any inventions that result from I.R. & D. efforts paid for with taxpayers' money. Defense contractors can retain the income from such patents or inventions, and the Government may even end up paying royalties for the right to use inventions developed at public expense. The contractors can exploit such inventions in either defense or commercial markets. They are thus able to increase their profits and their competitive advantages over smaller firms and nondefense contractors who are not eligible for the I.R. & D. subsidy.

This program contributes to the continued dominance of the large aerospace firms in the defense market. The largest defense contractors get the largest I.R. & D. subsidies. In 1972, the top 25 defense contractors received 41 percent of the Pentagon's business. But the same 25 firms received 72 percent of the I.R. & D. subsidy. In an area already dominated by a few large firms and where there is little effective competition, the I.R. & D. program encourages further concentration. In addition, it is possible for multidivisional conglomerates to pass on to Government contracts nearly all the costs of its defense-oriented business, and then to use inventions from I.R. & D. efforts in its commercial business.

It is argued that I.R. & D. is a legitimate overhead cost which the Government should pay along with other overhead such as rent, light, and general and administrative expenses. But I.R. & D. belongs in a separate category from the accepted overhead costs. For one thing, contractors have little incentive to control I.R. & D. costs, because the Government picks up most of the bill and any new inventions or processes could help them improve their market position and their profits. Secondly, in a period of declining defense sales, I.R. & D. can help pick up the slack, and it can be used to support staffs who cannot be employed on contract work. In such circumstances, it becomes a disincentive to trim excess overhead costs and excess staff.

It is also argued that I.R. & D. provides a way to develop and demonstrate prototypes of technologically advanced hardware before a formally recognized military requirement exists. I have advocated the development of prototypes prior to production of new systems. But prototypes should be funded according to a rational plan, not on the arbitrary criterion of how much business a contractor happened to do a year ago. And prototypes ought to be subjected to congressional authorization and appropriation.

A third argument is that I.R. & D. is necessary to maintain a modern technology base. Does the I.R. & D. program contribute to this objective and does it do it in a way that is in the national interest? If Government subsidies are needed to keep our technology up to date then Congress ought to deliberate over the best way to do it. There ought to be hearings in which the public is heard and various means for attaining the objective are considered. And there ought to be a congressionally enacted program, accountable to the legislative branch and subject to periodic review.

Under the present system, the larger the defense firm, the larger is its I.R. & D. subsidy. I do not believe that such a system is calculated to insure the continuance of a modern technology base. Moreover, as I mentioned earlier, the Pentagon is already spending about $8 billion annually for research and development, presumably to provide itself with a modern technology base.

Finally, it is argued that I.R. & D. is necessary to maintain the profitability of defense business. Of course, I.R. & D. makes defense work more profitable. But they are hidden profits and they may be unearned profits. Defense contractors—especially the larger firms—make ample profits, as recent studies have shown, and in some cases excess profits, without the added factor of hidden I.R. & D. profits.

Certainly, any review will show that some good ideas have come out of I.R. & D. efforts and that there have been benefits to the Government. The question is whether the benefits are worth the cost—presently running over $700 million annually. We are spending more through the Pentagon's I.R. & D. back door than the entire research budget of the National Science Foundation, more than the combined 1974 Federal budget for research on cancer and cardiovascular disease.

It is also interesting to note that the Atomic Energy Commission has an entirely different policy toward I.R. & D. for its contractors. The AEC does not accept I.R. & D. costs on its contracts unless the contractors can demonstrate direct benefits to the contracts they are working on. The AEC does not pay for a contractor's research program until it enters into a specific contractual arrangement and unless Government rights are reserved in resulting inventions and technical data. Not surprisingly, the AEC pays only a few millions of dollars per year for I.R. & D. If AEC can operate satisfactorily under such rules why cannot the Pentagon?

Mr. President, I am firmly in favor of research and development and a strong industrial base and a modern technology. But these worthy objectives do not justify back door subsidies of large defense contractors. If we need to subsidize industry for these purposes we might consider doing so through the National Science Foundation which is supposed to encourage the application of science and technology to the needs of industry and Government, or through some other means determined to be in the public interest. I do not believe the public interest is served, however, when programs are allowed to mushroom in the dark

recesses of the Pentagon without being subjected to rational debate or congressional deliberation. We do not serve the national interest by burying it in the defense budget.

For these reasons I am very pleased that my distinguished colleague, the chairman of the Subcommittee on Research and Development, is agreeable to an intensive study of the I.R. & D. program from top to bottom. I understand that our staffs have held discussions on the design of the study and that there will be further discussions with the staff of the GAO. I am most reassured by our cooperation in this matter and I look forward to the results of this effort.

Mr. President, I ask unanimous consent that the text of my amendment be printed in the RECORD.

My objection to the program, as I have explained in the past, is that there is no connection between this enormous amount of $700 million and our military research. This is the way that contractors can engage in other research, in nonmilitary research—specifically in nonmilitary research. As I say, it was the understanding that the program had become too extravagant, had gotten out of line somewhat. Nevertheless, it is something that the Armed Services Committee has become aware of. They have begun to tighten up on it. But I do think that the General Accounting Office study will give us the basis, give us the reason, to put a ceiling on the authorizations.

So I withdraw the amendment I have sent to the desk, with the understanding that the distinguished Senator from New Hampshire will agree to join me in requesting the General Accounting Office for the study I have proposed.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. McINTYRE. I say to the distinguished Senator from Wisconsin that the I.R. & D. is a familiar friend, ever since 1969 when we had an amendment to look into the I.R. & D. Generally speaking, I came out with a feeling that the independent R. & D. was being conditioned into some tightening up.

I understand that the Senator is willing to withdraw his amendment. I know that the distinguished Senator from Missouri (Mr. SYMINGTON), the acting chairman, and the distinguished Senator from Mississippi (Mr. STENNIS), the chairman, will go along with the Senator's proposal. We will ask the General Accounting Office to give it a good, hard look. I think that when that has been done, the independent I.R. & D. will pursue its efforts to reduce costs.

Mr. PROXMIRE. I thank the Senator from New Hampshire. I hope that when that is done, the Senator will join me in my efforts.

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

Mr. PROXMIRE. I yield.

Mr. SYMINGTON. I am glad that the chairman of the Research and Development Subcommittee agrees with the Senator's position. For many years I have felt that research and development has become a glamorous organization that is costing the American taxpayer an unnecessary amount of money.

For the last 6 years I have said to research engineering, Why not see that we get results from that Department? The Soviet gets the hardware. I have found that the cost of research on a shell is 7,000 times its cost in production—7,000 times the cost of a shell.

There are other things I cannot discuss on the floor with respect to whether there is an agreement or not or whether the shell can be used as it was designed to be used. Research and development has become a part of this gigantic complex that the Senator has been so forthright and able in presenting to the people of this country from the standpoint of wasted effort.

Mr. PROXMIRE. I yield the floor.

The PRESIDING OFFICER. The amendment has been withdrawn.

Mr. ROBERT C. BYRD. Mr. President, there will be no further action on the unfinished business today.

TIME LIMITATION AGREEMENT ON AMENDMENT NO. 528

Mr. ROBERT C. BYRD. Mr. President, while the Senator from Missouri (Mr. SYMINGTON) and the Senator from South Carolina (Mr. THURMOND) are here, I ask unanimous consent that at such time as amendment No. 528—authored by Mr. BAKER and Mr. BENTSEN to the military procurement bill—is called up and made the pending question, there be a time limitation thereon of 1 hour, with a time limitation on any amendment or debatable motion in relation thereto of 20 minutes, to be equally divided and controlled in accordance with the usual form, and that no amendment not germane be in order.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. Does the Senator refer to the amendment as modified?

Mr. ROBERT C. BYRD. As modified.

The PRESIDING OFFICER. Without objection, it is ordered.

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 with statements limited therein to 3 minutes.

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

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The 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.

CONSERVATION OF CERTAIN SPECIES

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1983.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 1983) to provide for the conservation, protection, restoration, and propagation of threatened and endangered species of fish, wildlife, and plants, and for other purposes, which were to strike out all after the enacting clause, and insert:

That this Act, with the following table of contents, may be cited as the "Endangered and Threatened Species Conservation Act of 1973".

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Sec. 2. Findings, purposes, and policy.
Sec. 3. Definitions.
Sec. 4. Determination of endangered species and threatened species.
Sec. 5. Land acquisition.
Sec. 6. Cooperation with the States.
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Sec. 9. Prohibited acts.
Sec. 10. Exceptions.
Sec. 11. Penalties and enforcement.
Sec. 12. Endangered plants.
Sec. 13. Conforming amendments.
Sec. 14. Repealer.
Sec. 15. Authorization of appropriations.
Sec. 16. Effective date.

FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) The Congress finds and declares that one of the unfortunate consequences of growth and development in the United States and elsewhere has been the extermination of some species or subspecies of fish, wildlife, and plants; that serious losses in species of wild animals with educational, historical, recreational, and scientific value have occurred and are occurring; that the United States has pledged itself, pursuant to migratory bird treaties with Canada and Mexico, the Migratory and Endangered Bird Treaty with Japan, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, the International Convention for the Northwest Atlantic Fisheries, the International Convention for the High Seas Fisheries of the North Pacific Ocean, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, and other international agreements, to conserve and protect, where practicable, the various species of fish, wildlife, and plants facing extinction; that a key to more effective protection and management of native fish and wildlife that are endangered or threatened is to encourage and assist the States in developing programs for such fish and wildlife; and that the conservation, protection, restoration, or propagation of such species will inure to the benefit of all citizens.

(b) The purposes of this Act are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, protected, or restored, to provide a program for the conservation, protection, restoration, or propagation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to protect endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(2) The term "endangered species" means any species of fish or wildlife which is in danger of extinction throughout all or a significant portion of its range.

(3) The term "fish or wildlife" means any wild member of the animal kingdom, whether or not raised in captivity, including without limitation, any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, or crustacean, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(4) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(5) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(6) The term "person" means (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(7) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(8) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this Act and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(9) The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(11) The term "take" means to harass, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to harass, pursue, hunt, shoot, wound, gill, trap, capture, or collect.

(12) The term "threatened species" means any species of fish or wildlife which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(13) The term "United States", when used in a geographical context, includes all States.

DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

SEC. 4. (a) The Secretary shall by regulation determine whether any fish or wildlife is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(b) (1) The Secretary shall make determinations required by subsection (a) of this section on the basis of the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the fish or wildlife concerned is normally found or whose citizens harvest such fish or wildlife on the high seas; except that in any case in which such determinations involve native species of fish or wildlife, the Secretary shall consult with and consider the recommendations of each State concerned before adding such species to, or removing such species from, any list published pursuant to subsection (c) of this section.

(2) In determining whether or not any fish or wildlife is an endangered species or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect such fish or wildlife, whether by predator control, protection of habitat and food supply, or other fish or wildlife conservation or management practices, within any area under the jurisdiction of any such nation or political subdivision.

(3) The Secretary shall give full consideration regarding whether or not fish or wildlife which have been designated by any foreign country, or pursuant to any international agreement, as requiring protection from unrestricted commerce are endangered species or threatened species.

(c) (1) The Secretary shall publish in the Federal Register, and from time to time he may by regulation revise, a list of all fish or wildlife determined by him to be endangered species and a list of all fish or wildlife determined by him to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(2) The Secretary shall, upon the petition of any interested person under subsection 553 (e) of title 5, United States Code, also conduct a review of any listed or unlisted species of fish or wildlife proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only when he finds and publishes his finding that, to his satisfaction, such person has presented substantial evidence to warrant such a review.

(3) Any list in effect on the day before the date of the enactment of this Act of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction shall be republished to conform to the classification for endangered species or threatened species, as the case may be, provided for in this Act, but until such republication, any such species so listed shall be deemed an endangered species within the meaning of this Act. The republication of any species pursuant to this paragraph shall not require public hearing or comment under section 553 of title 5, United States Code.

(d) Whenever the Secretary lists a species of fish or wildlife as an endangered species or a threatened species pursuant to subsection (a) of this section, he shall issue such regulations as he deems necessary and advisable to provide for the conservation, protection, restoration, or propagation of such species. The Secretary may by regulation prohibit under section 9(a) of this Act with respect to endangered species; except that with respect to native species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 6(c) of this Act only to the extent that such regulations have also been adopted by such State.

(e) For the purpose of facilitating the enforcement of this Act, the Secretary may from time to time, by regulation, treat, to the extent he deems advisable, any species of fish or wildlife or of any plant which is not listed pursuant to section 4 of this Act as an endangered species or threatened species, if such species so closely resembles in appearance, at the point in question, a species of fish or wildlife or plant which has been so listed that substantial difficulty is posed to enforcement personnel in attempting to differentiate between listed and unlisted species or subspecies of fish or wildlife or plants, and this difficulty poses an additional threat to an endangered species or threatened species.

(f) Section 553 of title 5, United States Code, shall apply with respect to any regulations issued pursuant to this Act.

LAND ACQUISITION

SEC. 5. (a) The Secretary shall establish and implement a program to conserve, protect, restore, or propagate (A) fish or wildlife which are listed as endangered species or threatened species pursuant to section 4 of this Act or (B) plants which are included in Appendices to the Convention. To carry out such program, the Secretary—

(1) shall utilize the land acquisition and other authority under the Migratory Bird Conservation Act, the Fish and Wildlife Coordination Act, as appropriate; and

(2) is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him.

(b) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section.

COOPERATION WITH THE STATES

SEC. 6. (a) In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving, protecting, restoring, or propagating any endangered or threatened species.

(b) The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation, protection, restoration, or propagation of endangered or threatened species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of setcion 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

(c) In furtherance of the purposes of this Act, the Secretary is authorized to enter into cooperative agreements to provide financial assistance to States, through their respective fish and wildlife agencies, which maintain or establish adequate and active programs to manage and protect endangered and threatened species. In order for any State to qualify for assistance under this subsection, the Secretary must find annually that under the State program—

(1) authority resides in the State fish and wildlife agency to manage and protect native species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(2) the State fish and wildlife agency has established acceptable management programs, consistent with the purposes and policies of this Act, for all species of fish or

wildlife indigenous to the State which are deemed by the Secretary to be endangered or threatened;

(3) the State fish and wildlife agency is authorized to conduct investigations to determine the status and requirements for survival of indigenous species or subspecies of fish and wildlife;

(4) the State fish and wildlife agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for protection and management of endangered or threatened species; and

(5) provision is made in such programs for public participation in designating indigenous species or subspecies of fish or wildlife as endangered or threatened.

(d)(1) Funds appropriated annually for purposes of assistance under subsection (c) shall be available to the Secretary for allocation to the States under cooperative agreements to assist in development by States of programs for management and protection of endangered and threatened species of fish or wildlife including research, censusing, law enforcement, and habitat acquisition or improvement. The Secretary shall make an allocation of appropriated funds to the States based on consideration of—

(A) the international obligations of the United States to protect a species;

(B) the national significance of a species found to be endangered or threatened within a State; and

(C) the potential for preventing extinction of a species and restoring such species to nonendangered or nonthreatened status.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this Act.

(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with preservation and restoration of endangered or threatened species; (C) the estimated cost of these actions; and (D) the share of such costs to be borne by the Federal Government and by the State; except that—

(i) the Federal share of such program costs shall not exceed 66⅔ per centum of the estimated program costs stated in the agreement; and

(ii) the Federal share may be increased to 75 per centum whenever two or more States, having a common interest in a program that the Secretary deems to meet the criteria of paragraph (1), enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement.

(e) Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

(f) Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered or threatened species is void to the extent that it may effectively (1) permit what is prohibited by this Act or by any regulation which implements this Act or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve and manage migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered or threatened species may be more restrictive than the exemptions or permits provided for in this Act or in any regulation which implements this Act, but not less restrictive than the prohibitions so defined.

(g) The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(h) There are hereby authorized to be appropriated for the fiscal years 1974, 1975, and 1976 such sums as may be necessary to carry out the purposes of this section.

INTERAGENCY COOPERATION

SEC. 7. (a) The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purpose of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the protection of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

(b) The Secretary of Agriculture is authorized, notwithstanding the provisions of any other law, to bear the full cost, or any lesser amount that he, in consultation with the Secretary, may determine desirable to accomplish the objectives of the Act, of the cost of installing any practice, measure, work of improvement, facility, or other developmental, protective, or management systems on private land, the primary purpose of which is to enable landowners to comply with the regulations, or other recommendations, of the Secretary pertaining to the conservation, protection, restoration, or propagation of such species. The Secretary of Agriculture, in carrying out the purposes of this subsection, shall utilize his authorities to conduct research and investigations into vegetative and structural methods and other methods and practices, measures, works of improvement, and facilities most appropriate or effective in the protection, control, management, or enhancement of such species. If determined desirable, the Secretary and the Secretary of Agriculture may jointly carry out such research and investigations. The Secretary may transfer to the Secretary of Agriculture such funds as may be necessary to carry out the purposes of this subsection.

INTERNATIONAL COOPERATION

SEC. 8. (a) As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President, may, subject to the provisions of section 1415 of the Supplemental Appropriation Act, 1953 (31 U.S.C. 724), use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation, protection, restoration, or propagation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 15 of this Act.

(b) In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the protection, conservation, restoration, or propagation of fish or wildlife including endangered species and threatened species listed pursuant to section 4 of this Act;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such protection, conservation, restoration, or propagation; and

(3) foreign persons who directly or indirectly take fish or wildlife and plants in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out, with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife and plants and their habitat.

(c) After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the protection, conservation, restoration, or propagation of fish or wildlife and plants; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife and plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

(e) The President is authorized and directed to designate appropriate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

PROHIBITED ACTS

SEC. 9. (a) Except as provided in section 10 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

(1) import into, or export from, the United States any endangered species listed pursuant to section 4 of this Act;

(2) take any such species within the United States or the territorial sea of the United States, upon the high seas, or in any foreign country, except that this paragraph shall apply within any State which has entered into a cooperative agreement pursuant to section 6(c) of this Act only to the

extent that the taking of any such species is contrary to the law of such State;

(3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of paragraph (2);

(4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and for commercial purposes, any such species;

(5) sell or offer for sale in interstate or foreign commerce any such species; or

(6) violate any regulation promulgated by the Secretary pursuant to section 4(d) of this Act.

(b)(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 4 of this Act but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied, and

(C) the applicable requirements of subsections (d) and (e) of this section have been satisfied,

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

(c)(1) It is unlawful for any person to engage in business as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained a permit from the Secretary.

(2) Any person required to obtain a permit under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, or plants made by him and the subsequent disposition made by him with respect to such fish, wildlife, or plants;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish, wildlife, or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require. (3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(d) It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this Act or to meet the obligations of the Convention.

(e)(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for commercial purposes or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary. For the purpose of facilitating enforcement of this Act and reducing the costs thereof, the Secretary, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons if, in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc–4(d)), shall, if such designation is in effect on the day before the date of the enactment of this Act, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(f) It is unlawful for any person subject to the jurisdiction of the United States to attempt or conspire to commit, or cause to be committed, any offense defined in this section.

EXCEPTIONS

SEC. 10. (a) The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species.

(b)(1) If any person enters into a contract with respect to a species or subspecies of fish or wildlife or plant before the date of the publication in the Federal Register of notice of a proposed listing of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 4 of this Act will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 9(a) of this Act to the extent the Secretary deems apppropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of a proposed listing of the species or subspecies concerned, or shall apply to a quantity of fish or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species or subspecies of fish or wildlife listed by the Secretary as endangered prior to the effective date of this Act shall expire in accordance with the terms of section 3 of the Act of December 5, 1969 (83 Stat. 275); and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used for primarily commercial purposes.

(2) The Secretary shall publish notice in the Federal Register of each application for an exemption which is made under this subsection. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(c) The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds and publishes his finding that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of this Act.

(d) Any taking by an Indian, Aleut, or Eskimo of any marine mammal (as defined in section 2(5) of the Marine Mammal Protection Act of 1972) which is listed pursuant to section 4(a) of this Act as an endangered species or threatened species shall not be deemed to be in violation of this Act or any regulation issued pursuant thereto if such taking is lawful under section 101(1) of the Marine Mammal Protection Act of 1972.

PENALTIES AND ENFORCEMENT

SEC. 11. (a)(1) Any person who violates any provision of this Act, or any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1), (2), (3), (4), or (5), (b), (c) (other than a regulation relating to recordkeeping or filing of reports), (e) or (f) of section 9 of this Act may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. Any person who knowingly violates any provision of any other regulation issued under this Act may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5, United States Code. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b)(1) Any person who knowingly commits an act which violates any provision of this Act, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1), (2), (3), (4), or (5), (b), (c) (other than a regulation relating to recordkeeping or filing of reports), (e), or (f) of section 9 of this Act shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who knowingly commits an act which violates any provision of any other regulation issued under this Act shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both. Upon the recommendation of the Secretary, the Secretary of

the Treasury is authorized to pay an amount equal to one-half of the fine incurred but not to exceed $2,500 to any person who furnishes information which leads to a conviction for a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this Act or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this Act or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(c) The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any actions arising under this Act. For the purpose of this Act, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

(d) (1) The provisions of this Act and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this Act may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any office or court of competent jurisdiction for enforcement of this Act. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4) (A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this Act, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to section 11 (b) (1) of this Act.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

(e) The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act, including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of fish or wildlife or plants and evidentiary items seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(f) (1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof. The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be.

(2) No action may be commenced—

(A) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(B) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(3) (A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(g) The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this Act with the administration of the animal quarantine laws (21 U.S.C. 101–105, 111–135b, and 612–614) and section 306 of the Tariff Act of 1930 (19 U.S.C. 1306). Nothing in this Act or any amendment made by this Act, shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles and no proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture.

(h) Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, without limitation, section 527 of that Act (19 U.S.C. 1527), relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

ENDANGERED PLANTS

SEC. 12. The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of providing adequate protection to such species, and to report to Congress, within one year after the date of the enactment of this Act, the results of such review including recommendations for new legislation or the amendment of existing legislation.

CONFORMING AMENDMENTS

SEC. 13. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd (c)), is further amended by revising the second sentence thereof to read as follows: "With the exception of endangered species and threatened species listed by the Secretary pursuant to section 4 of the Endangered and Threatened Species Conservation Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of that Act, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system."

(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224, 16 U.S.C. 715i(a)) and subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s(a)), are each amended by striking out "threatened with extinction," and inserting in lieu thereof the following: "listed pursuant to section 4 of the Endangered and Threatened Species Act of 1973 as endangered species or threatened species,".

(c) Section 7(a) (1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9(a)(1)) is amended by striking out: "THREATENED SPECIES.—For any national

area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction."

and inserting in lieu thereof the following:

"ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered and Threatened Species Conservation Act of 1973, needed for the purpose of conserving, protecting, restoring, or propagating endangered species of fish or wildlife or plants."

(d) The first sentence of section 2 of the Act of September 28, 1962, as amended (76 Stat. 653, 16 U.S.C. 460k–1), is amended to read as follows:

"The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

"(1) incidental fish and wildlife-oriented recreational development,

"(2) the protection of natural resources,

"(3) the protection of endangered species or threatened species listed by the Secretary pursuant to section 4 of the Endangered and Threatened Species Conservation Act of 1973, or

"(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps."

(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) is amended—

(1) by striking out "Endangered Species Conservation Act of 1969" in section 3(1)(B) thereof and inserting in lieu thereof the following: "Endangered and Threatened Species Conservation Act of 1973";

(2) by striking out "pursuant to the Endangered Species Conservation Act of 1969" in section 101(a)(3)(B) thereof and inserting in lieu thereof the following: "or threatened species pursuant to the Endangered and Threatened Species Conservation Act of 1973";

(3) by striking out "endangered under the Endangered Species Conservation Act of 1969" in section 102(b)(3) thereof and inserting in lieu thereof the following: "an endangered species or threatened species pursuant to the Endangered and Threatened Species Conservation Act of 1973"; and

(4) by striking out "Endangered Species List, authorized by the Endangered Species Conservation Act of 1969," in section 202(a)(6) thereof and inserting in lieu thereof the following: "endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered and Threatened Species Conservation Act of 1973".

REPEALER

SEC. 14. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa–668cc–6), is repealed.

AUTHORIZATION OF APPROPRIATIONS

SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

(A) not to exceed $6,000,000 for fiscal year 1974, not to exceed $8,000,000 for fiscal year 1975 and not to exceed $10,000,000 for fiscal year 1976, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

(B) not to exceed $1,500,000 for fiscal year 1975 and not to exceed $2,000,000 for fiscal year 1976, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.

EFFECTIVE DATE

SEC. 16. This Act shall take effect on the date of its enactment.

And amend the title so as to read: "An Act to provide for the conservation, protection, restoration, or propagation of endangered and threatened species of fish, wildlife, and plants, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I have been asked to move that the Senate disagree to the amendments of the House of Representatives and agree to the conference requested by the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HART, Mr. TUNNEY, and Mr. STEVENS conferees on the part of the Senate.

ORDER FOR ADJOURNMENT FROM TOMORROW TO WEDNESDAY AT 9 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow, it stand in adjournment until the hour of 9 a.m. on Wednesday.

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

Mr. ROBERT C. BYRD. Mr. President, these further requests can be modified later, but it is well to get them now.

ORDER FOR ADJOURNMENT FROM WEDNESDAY TO 9 A.M. THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Wednesday, it stand in adjournment until the hour of 9 o'clock a.m. Thursday.

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

ORDER FOR ADJOURNMENT FROM THURSDAY TO 9 A.M. FRIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday, it stand in adjournment until the hour of 9 a.m. Friday.

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

ORDER FOR ADJOURNMENT FROM FRIDAY TO 9 A.M. SATURDAY

Mr. ROBERT C. BYRD. Mr. President, here is a request I hope will be vitiated later in the week.

I ask unanimous consent that when the Senate completes its business on Friday, it stand in adjournment until the hour of 9 a.m. on Saturday.

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

ORDER THAT SENATE CONVENE ON MONDAY NEXT AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate meets on Monday, October 1, it meet at the hour of 10 a.m.

The PRESIDING OFFICER. 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 9 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, the Senator from Idaho (Mr. CHURCH) will be recognized for not to exceed 15 minutes, after which the junior Senator from West Virginia (Mr. ROBERT C. BYRD) will be recognized for not to exceed 15 minutes, after which the Senate will resume the consideration of the unfinished business, the military procurement bill.

This would mean that the Senate would resume consideration of the unfinished business at about 9:30 a.m. tomorrow. The pending question at that time will be on the adoption of the Cannon amendment on the F–14. There is a time limitation of 2 hours on that amendment. A yea-and-nay vote undoubtedly will occur thereon.

The Senate will then take up the Hartke amendment No. 494, dealing with recomputation, under a time limitation of not to exceed 1½ hours. A yea-and-nay vote undoubtedly will occur thereon.

At 1:30 p.m. the Senate will take up the amendment dealing with the Trident, and debate will ensue thereon until 4 p.m. The vote on the Trident amendment will not occur at that time, and the amendment will go over to Wednesday.

The distinguished Senator from Washington (Mr. JACKSON) has indicated he will ask for a closed session at 1:30 p.m. tomorrow. The time for debate on the Trident amendment will be divided between and controlled by Mr. MCINTYRE and Mr. JACKSON, whether in closed or open session.

At 4 o'clock p.m. the Trident amendment will be set aside, and 1 hour of debate will begin on overriding the Presidential veto, with a yea-and-nay vote automatically to occur not later than 5 o'clock p.m.

Upon disposition of the vote to override the Presidential veto, the Senate will proceed to consider the Jackson-Nunn amendment dealing with financing of U.S. troops in Europe by NATO countries. There is a time limitation of 2½ hours on that amendment, and a yea-and-nay vote will occur thereon.

That will make for a very full day, and will carry us to about 8 o'clock p.m.

On Wednesday the Senate will convene at 9 o'clock a.m. and after the two leaders or their designees have been recognized, the Mansfield amendment will be taken up under a time limitation agreement of 2 hours. A yea-and-nay vote will occur thereon, after which the Senate will resume the consideration of the Trident amendment for a time span of 4 hours. The remainder of Wednesday is, at this moment, undecided, but there will be further action into the evening—8 or 9 o'clock perhaps.

Mr. President, while time agreements

have been entered with respect to most of the remaining amendments known to the leadership, the amendments have not been clocked in as to the date on which they will be called up.

For the convenience of Senators, those amendments are as follow—not to be called up necessarily in the following order:

The McGovern amendment dealing with the categorical ceiling, 4 hours;

The Proxmire amendment (No. 515) dealing with an outlay ceiling, 4 hours;

The SAM–D amendment (No. 487) by Mr. BAYH, 4 hours;

The Hughes amendment (No. 493), 2 hours;

The Humphrey amendment dealing with an overall cut, 2 hours;

The Humphrey amendment with relation to troop levels, 2 hours;

The Clark amendment (No. 519), to cut funds for the aircraft carrier, 4 hours; the Baker-Bentsen amendment, No. 528, on which there is a time limitation of 1 hour;

Amendment No. 501 by Mr. HARTKE, 1½ hours;

An amendment by Mr. STEVENS dealing with housing allowances, 1 hour. There may be one or two amendments by Mr. KENNEDY. I have not discussed these with Mr. KENNEDY, but the amendments stated, I think, pretty well cover the remaining action on the procurement bill, as far as we can foresee at this time.

Mr. President, I wonder if the distinguished assistant Republican leader would agree at this time that after the first yea-and-nay vote tomorrow, all subsequent rollcall votes tomorrow be limited to 10 minutes, with the warning bells to be sounded after the first 2½ minutes.

Mr. GRIFFIN. I think that is an excellent suggestion. I particularly think it wise that the agreement be made today so that notice will go out and our colleagues will be aware of it.

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

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

Mr. ROBERT C. BYRD. Mr. President, the Senate will meet early and late daily throughout this week, in the effort to complete action on the military procurement bill this week. Yea-and-nay votes will occur daily, early and late, throughout the week. In order to complete work on the military procurement this week, it will be necessary for the leadership to have as much flexibility as is possible in scheduling amendments to the military procurement bill. Senators who have amendments will please keep themselves in readiness for scheduling those amendments as best meets the convenience of the Senate.

Mr. President, I think that is about all, but I suggest the absence of a quorum to be sure that nothing remains.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT TO 9 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 the hour of 9 a.m. tomorrow.

The motion was agreed to; and at 6:36 p.m. the Senate adjourned until tomorrow, Tuesday, September 25, 1973, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Monday, September 24, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The fear of the Lord is wisdom, and to turn from evil is understanding.—Job 28: 28.

O God and Father of us all, from whom cometh light and life for our way, touch Thou our dust with spirit-hand and make us souls that understand. Facing the tasks of this day we pray for wisdom to choose wisely, for strength to stand firm for what is right, and for courage to walk worthily in the way of Thy word.

Help us to accept our privileges with gratitude, to carry our responsibilities with honor, to meet our difficulties with courage, and to discharge our duties with fidelity.

We pray for justice between our people, for good will in all our hearts and for an enduring peace in our world. Together may we walk the upward way toward the heights of Thy Kingdom on Earth.

In the mood of the Master 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 SENATE

A message from the Senate by Mr. Arrington, one of its clerks, 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. 1636) entitled "An act to amend the International Economic Policy Act of 1972."

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 Senate to the bill (H.R. 8917) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1974, and for other purposes" and that the Senate agrees to the House amendments to Senate amendments Nos. 4, 6, 7, 15, 17, 29, 30, 32, 36, 39, 40, 41, 42, and 48, to the foregoing bill.

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. 4200. An act to amend section 122 of the Internal Revenue Code of 1954; and

H.R. 6628. An act to amend section 101 (b) of the Micronesian Claims Act of 1971 to enlarge the class of persons eligible to receive benefits under the claims program established by that act.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4200) entitled "An act to amend section 122 of the Internal Revenue Code of 1954," 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. LONG, Mr. WILLIAMS, Mr. RANDOLPH, Mr. NELSON, Mr. BENTSEN, Mr. JAVITS, Mr. SCHWEIKER, Mr. BENNETT, and Mr. CURTIS to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 1317) entitled "An act to authorize appropriations for the United States Information Agency," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FULBRIGHT, Mr. MANSFIELD, Mr. MCGOVERN, Mr. AIKEN, and Mr. CASE 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. 988. An act to designate certain lands in the Shenandoah National Park, Va., as wilderness;

S. 1101. An act to amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Michigan for potential additions to the National Wild and Scenic Rivers System;

S. 1391. An act to amend the Wild and Scenic Rivers Act by designating a segment of the Wisconsin River for potential addition to the National Wild and Scenic Rivers System;

S. 1848. An act for the relief of Mrs. Lucy Locke;

S. 2174. An act to amend the civil service retirement system with respect to the definitions of widow and widower; and