areas ought to be better served by our National Park system.

10. Does the Mulholland National Scenic Parkway proposal have significant community support?

Answer: Yes. The legislation is supported by the California Department of Parks and Recreation, by the Los Angeles County Department of Parks and Recreation, and by the Los Angeles City Recreation and Parks Commission.

It has been endorsed by Mayor Bradley. It will be cosponsored in the U.S. Senate by Senator Alan Cranston and Senator John Tunney of California.

A resolution has been introduced in the Los Angeles City Council (proposed by Councilman Wachs, seconded by Councilman Braude) expressing support for the legislation.

Both the Los Angeles Times and the Los Angeles Herald Examiner have editorialized in behalf of the proposal. And we understand other local publications and citizens' groups are also preparing supporting statements.

TRIBUTE TO MARIE McDOWELL, OF ALASKA

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 4, 1973

Mr. YOUNG of Alaska. Mr. Speaker, I would like to join my fellow Alaskans in expressing deep sorrow at the passing of Marie McDowell, dedicated member of Alaska's State Board of Education since 1971. I wish to take this opportunity to recognize the high principles and strong convictions she demonstrated during her tenure on the State board of education.

Marie McDowell was a concerned individual and advocate of the youth, who contributed much to the betterment of Alaska's educational system. All of Alaska will feel the loss of her wisdom and devoted service.

SENATE—*Wednesday, December 5, 1973*

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

Dr. Frank E. Gaebelein, headmaster emeritus, the Stony Brook School, Stony Brook, N.Y., offered the following prayer:

O God of all love and compassion, Thou who dost work redemptively among men, we confess our need of Thy cleansing and healing power in our lives and in our country. Thou art ever gracious to forgive us our sins when we truly turn to Thee. Teach us, therefore, to be forgiving in all our dealings with others. Thou art just and righteous in all Thy ways. Increase, therefore, our sensitivity to injustice and quicken our concern for the poor and oppressed.

Sustain and encourage, we beseech Thee, all who bear the burdens of governing our Nation. May the Members of this body be given discernment in knowing Thy will and integrity in doing it. And grant, O gracious God, that with clarity of mind and soundness of judgment they may glorify Thee in all their work today.

In the name of Him who is the Way, the Truth, and the Life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, December 4, 1973, be dispensed with.

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

AMERICAN INDIAN POLICY REVIEW COMMISSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 572, Senate Joint Resolution 133.

The PRESIDENT pro tempore. The joint resolution will be stated.

The legislative clerk read as follows:

S.J. Res. 133, to provide for the establishment of the American Indian Policy Review Commission.

The PRESIDENT pro tempore. Is there objection to the consideration of a joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on Interior and Insular Affairs with amendments on page 5, line 14, after the word "Senate", insert "Committee on Interior and Insular Affairs"; in line 16, after the word "House", insert "of Representatives"; in line 21, after the word "Representatives", insert "Committee on Interior and Insular Affairs"; on page 6, line 21, after the word "above", insert "Indian members"; in line 23, after the word "any", insert "one"; on page 7, at the beginning of line 13, strike out "$150 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties." and insert "$100 for each day such member is engaged in the actual performance of duties vested in the Commission, but not to exceed sixty days in any one calendar year. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service."; on page 9, line 1, after the word "to", strike out "Indians;" and insert "Indians, and provide specifically for a management study of the Bureau of Indian Affairs utilizing experts from the public and private sectors;"; on page 12, line 1, after the word "this", strike out "Act and such moneys as may be appropriated shall be available to the Commission until expended" and insert "Act"; at the beginning of line 5, strike out "the civil service laws and regulations and without regard to the Classification Act of 1949, as amended," and insert "provisions of title 5, United States Code, governing appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates,"; and, in line 24, after "(d)", strike out "service of an individual as a member of an ad hoc committee, or employment by the Commission of an attorney or expert in any job or professional field on a part-time or full-time basis with or without compensation shall not be considered as service or employment bringing such individual within the provisions of the act of October 23, 1962 (76 Stat. 1119)." and insert "Any individual serving as a member of an ad hoc committee, or any attorney or expert in any job or professional field employed by the Commission on a part-time or full-time basis with or without compensation, shall, while engaged in such service or employment, be deemed a "special Government employee" within the meaning of section 202 of title 18, United States Code."

The amendments were agreed to.

The joint resolution, as amended, was passed.

The preamble was agreed to.

The joint resolution, as amended, with the declaration and preamble, reads as follows:

DECLARATION OF POLICY

It is hereby declared to be the policy of Congress that the unique and longstanding legal relationship between the American Indian people and the Federal Government shall—

(a) be fully recognized and respected; and

(b) serve as the foundation for a fundamental reform of Federal-Indian relations so as to develop and implement a new national Indian policy to encourage and assist the full development of the unique human and natural resources of Indian people.

DECLARATION OF PURPOSE

Recognizing that the unique relationship of the American Indian people and the Federal Government is based upon the Constitution, numerous treaties and a still-growing body of statutory law and court decisions, that this relationship carries with it a Federal trust responsibility for the protection of Indian land and rights to other natural resources and for the provision of public services to Indian people, that this solemn and legal responsibility has not been adequately fulfilled, that the Indian people have been denied the opportunity to realize the full potential of their human and natural resources, and, therefore, that those results demonstrate that the national Indian policy and the administration of Indian affairs is

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

not in the best interests of the Indian people, the general public, and the Federal Government, the Congress declares that it is timely and essential to conduct a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government in order to determine the nature and scope of necessary revisions in the formulation of policies and programs for the benefit of Indian people.

Whereas article I, section 8, clause 3, of the Constitution of the United States, gives to Congress the power "to regulate commerce * * * with the Indian tribes;" and this clause has been consistently interpreted to give Congress plenary power over Indians and Indian tribes; and

Whereas the Congress has not exercised such plenary power to bring about fundamental reform to Indian affairs since approval of the Act of June 18, 1934 (48 Stat. 987), the Indian Reorganization Act; and

Whereas the Constitution, numerous treaties, statutes, and judicial decisions have charged the Federal Government with a special trust responsibility to protect and enhance Indian lands, water, and other natural resources; and

Whereas the national American Indian policy, from the beginning of this special Federal trust responsibility, has followed an inconsistent pattern and has failed to assist Indian people to achieve their individual, family, and community goals; and

Whereas the administration of Indian affairs by the governmental institutions charged with fulfilling the special Federal trust responsibility to Indians is characterized by a morass of conflicting policies and practices that serve to inhibit the exercise, rather than encourage the fulfillment, of such responsibility to Indians; and

Whereas, as a direct outgrowth of the inconsistent policy pattern followed by the Federal Government, generations of Indian people have suffered social and economic deprivation unparalleled by any other segment of society; and

Whereas such social and economic deprivation is illustrated by the following:

(1) The infant mortality rate for Indians is 23.8 deaths per 1,000 live births compared to 19.2 for all races;

(2) The life expectancy for Indians is 64.9 compared to 70.8 for all races in the Nation;

(3) Typical Indian families of five or six live in one- or two-room houses, 24 per centum of which lack running water and adequate sanitation facilities;

(4) Forty-three per centum of Indian students drop out of school before graduation, and the average number of years of schooling completed by Indians is 8.4 compared to the national average of 10.6;

(5) Unemployment among Indian people averages 40 per centum, and runs as high as 58 per centum on some reservations during the winter months;

(6) The average annual per capita income for Indians is $1,184, as compared to a national average of $3,344; and

Whereas the failure of governmental institutions to enable individual Indians to enjoy good health, to receive meaningful academic and vocational training, to find satisfying employment, to live in decent and acceptable housing, and to enjoy fundamental civil rights has contributed to feelings of despair, frustration, and alienation among young and older Indians alike; and

Whereas the despair, frustration, and alienation experienced by many Indian people have led to deep division in the Indian community and such division having already manifested itself through serious eruptions which conceivably could recur; and

Whereas the Congress deems it timely and essential to undertake a comprehensive review of the historical and legal developments underlying the Indians' unique relationship with the Federal Government to support the formulation of more positive and effective national Indian policies and programs; and

Whereas as used in this resolution the term "American Indian" or "Indian" shall include "Alaskan Native"; and

Whereas the President is to be commended for submission of a legislative package to Congress which is designed to implement a self-determination policy for American Indian people; and

Whereas the proposed comprehensive review of the historical-legal basis underlying the unique Federal relationship with American Indian people would not preclude congressional consideraton of the President's Indian legislative proposals and other important Indian measures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that—

(1) (a) In order to carry out the purposes described above, there is hereby established a commission to be known as the American Indian Policy Review Commission, hereinafter referred to as the "Commission".

(b) The Commission shall be composed of fifteen members, as follows:

(i) two majority members of the Senate Committee on Interior and Insular Affairs and one Member of the Senate at large to be appointed by the majority leader of the Senate and two minority Members of the Senate Committee on Interior and Insular Affairs to be appointed by the minority leader of the Senate;

(ii) two majority members of the House of Representatives Committee on Interior and Insular Affairs and one Member of the House of Representatives at large to be appointed by the Speaker of the House of Representatives and two minority Members of the House of Representatives Committee on Interior and Insular Affairs to be appointed by the minority leader of the House of Representatives;

(iii) there shall be elected from the foregoing ten members a Chairman and a Vice Chairman of the Commission at an organizational meeting called at such time and place as may be specified in a call issued jointly by the senior member appointed by the majority leader of the Senate and the senior member appointed by the Speaker of the House of Representatives;

(iv) five Indian members who shall be selected by the ten congressional Members, by majority vote, at their organizational meeting immediately following the election of a Chairman and Vice Chairman from the following segments of the Indian community:

(1) three members shall be selected from tribes that are recognized by the Federal Government, one of whom must presently reside off the reservation;

(2) one member shall be selected to represent urban Indians; and

(3) one member shall be selected who is a member of an Indian group not recognized by the Federal Government.

None of the above Indian members shall be employees of the Federal Government at the time of selection, nor shall there be more than one member from any one Indian tribe.

(c) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(d) Eight members of the Commission shall constitute a quorum, but a smaller number, as determined by the Commission, may conduct hearings.

(e) Members of Congress who are members of the Commission shall serve without any compensation other than that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(f) The selected Indian members shall each receive $100 for each day such member is engaged in the actual performance of duties vested in the Commission, but not to exceed sixty days in any one calendar year. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

DUTIES OF THE COMMISSION

(2) (a) The Commission shall—

(i) appoint an Executive Director, whose responsibility will be to supervise the Commission staff and assign and arrange for the preparation of the necessary reports;

(ii) appoint a General Counsel, whose duties will be to advise the Commission, the Executive Director, and the staff on legal matters and supervise the carrying out of those contracts which involve legal expertise;

(iii) contract with organizations and individuals whose professional expertise, experience, work, and credibility are generally recognized and accepted;

(iv) create such advisory groups to examine particular issues as the Commission deems necessary to achieve adequate Indian involvement on those issues;

(v) conduct hearings in various regions and on selected Indian reservations where Indians can most easily attend and make their views known directly to the Commission and where particular illustrations of fact situations may be more easily documented;

(vi) study and analyze the Constitution, treaties, statutes, judicial interpretations, and Executive orders to determine the attributes of the unique relationship between the Federal Government, Indians, and Indian tribes, and concerning the lands they possess;

(vi) review the policies, practices, and structure of the Federal agencies charged with protecting Indian resources and providing services to Indians, and provide specifically for a management study of the Bureau of Indian Affairs utilizing experts from the public and private sectors;

(viii) examine the statutes and the procedures for granting Federal recognition and extending services to Indian communities and individuals;

(ix) collect and compile the data necessary to understand the *extent of* Indian needs which presently exist or will exist in the future;

(x) explore the feasibility of alternative election bodies which could fully represent Indians at the national level of Government to provide Indians with maximum participation in policy formulation and program development;

(xi) consider alternative methods to strengthen tribal government so that the tribes might fully represent their members, and, at the same time, guarantee the fundamental rights of individual Indians; and

(xii) recommend such modification of existing laws, procedures, regulations, policies, and practices, as will, in the judgment of the Commission, best serve to carry out the policy and declaration of purpose as set out above.

(b) The Commission shall submit to the President of the Senate and the Speaker of the House of Representatives an interim report, not later than one year after the passage of this resolution, which shall contain recommendations based upon their preliminary findings for legislative consideration and specific legislative action to better fulfill the needs of Indian people. Not later than two years after the passage of this resolution, the Commission shall submit to the President of the Senate and the Speaker of the House of Representatives its final report. The Commission shall cease to exist six months after submission of said final report. All records

and papers of the Commission shall thereupon be delivered to the Administrator of the General Services Administration for deposit in the Archives of the United States.

POWERS OF THE COMMISSION

SEC. 2. (a) The Commission or, on authorization of the Commission, any committee of two or more members, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued only on the authority of the Commission and shall be served by anyone designated by the Chairman of the Commission.

A witness may submit material on a confidential basis for the use of the Commission and, if so submitted, the Commission shall not make the material public. The provisions of sections 192–194, inclusive of title 2, United States Code, shall apply in case of any failure of any witness to comply with any subpena when summoned under this section.

(b) The Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this Act and each such department, agency, and instrumentality is authorized and directed to furnish such information to the Commission and to conduct such studies and surveys as may be requested by the Chairman or the Vice Chairman when acting as Chairman.

(c) If the Commission requires of any witness or of any Government agency the production of any materials which have theretofore been submitted to a Government agency on a confidential basis, and the confidentiality of those materials is protected by statute, the material so produced shall be held in confidence by the Commission.

APPROPRIATIONS, EXPENSES, AND PERSONNEL

SEC. 3. (a) There is hereby authorized to be appropriated a sum not to exceed $2,000,000 to carry out the provisions of this Act.

(b) The Commission is authorized, without regard to provisions of title 5, United States Code, governing appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates, to appoint and fix the compensation of its staff director, and such additional personnel as may be necessary to enable it to carry out its functions except that any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege.

(c) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations and, if necessary, to transfer funds to Federal agencies from sums appropriated pursuant to this resolution to carry out such aspects of the review as the Commission determines can best be carried out in that manner.

(d) Any individual serving as a member of an ad hoc committee, or any attorney or expert in any job or professional field employed by the Commission on a part-time or full-time basis with or without compensation, shall, while engaged in such service or employment, be deemed a "special Government employee" within the meaning of section 202 of title 18, United States Code.

Mr. HUGH SCOTT. Mr. President, I would simply suggest that this bill comes a little late. Perhaps it should have been passed in 1491.

Mr. MANSFIELD. Before Columbus got here?

Mr. HUGH SCOTT. Yes, sir. An Indian policy review seems to have begun the very next year.

Mr. MANSFIELD. The Senator may be right.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calendar beginning with New Reports.

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

The PRESIDING OFFICER (Mr. ABOUREZK). The nominations on the Executive Calendar, beginning with New Reports, will be stated.

FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

The second assistant legislative clerk read the nomination of Robert W. McVay, of Missouri, to be a member of the Federal Metal and Nonmetallic Mine Safety Board of Review.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read sundry nominations in the Public Health Service which had been placed on the Secretary's desk.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized under the standing order.

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

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

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum with the time to be charged against my time.

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

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order the Senator from Montana (Mr. MANSFIELD) is recognized for not to exceed 15 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

IMPACT OF THE TWA STRIKE AND THE AIRLINE MUTUAL AID PACT

Mr. DOLE. Mr. President, it has now been nearly 30 days since the strike by Trans World Airlines cabin attendants first halted air service by that airline. Many who travel to Kansas City or other points across the country are painfully aware of the existing inconveniences. Passenger inconvenience is one thing, but more devastating is the economic impact of the strike felt by the TWA employees and the communities across the country served by TWA.

In Kansas City, for example, the reduction in the TWA payroll means a drop from nearly $13 million per month before the strike, to approximately $3 million per month at the present time.

Other inconveniences are numerous. There is a 1-day delay in mail going in and coming out of the Kansas City area due to the diminished air services. Passengers across the country must be rerouted if their flights depend on TWA connections. Canceled business conventions in Kansas City and across the country have resulted in complications and decreased business activity for the convention cities.

The strike was called by the Transport Workers Union of America when they were unable, after 17 months of negotiations, to reach a contract agreement with TWA. There are, of course, significant differences between the demands presented by both sides, and while it would not be proper for me to intrude in collective bargaining, I am hopeful that an early settlement can be concluded.

MUTUAL AID PACT

I am, of course, aware of charges that the mutual aid pact existing between the airlines provides disincentives against real negotiations.

The mutual aid pact is an agreement initially reached October 30, 1958, by six of the major airlines. Over the years the membership has grown to include nearly all major airlines and many local

service airlines. Members consent to pay any party to the agreement who is being struck certain amounts of money to cover the losses incurred during the strike, theoretically enabling the struck carrier to meet its capital and operating expenses during the strike period. Supplemental payments have been increased to as high as 50 percent of normal operating costs in recent years. Payments of this nature to TWA are alleged to be in the neighborhood of $2 million per day.

Because of the serious economic impact and the allegations that the existing airline mutual aid pact provides disincentives which retard negotiations, I believe the matter deserves a review by Congress.

In an effort to determine whether the airlines mutual aid pact is, in fact, in or adverse to the public interest, I have requested that the Senate Commerce Committee hold hearings. In the meantime, I am hopeful that meaningful negotiations will continue and that a just settlement will be reached soon.

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

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MANSFIELD. Mr. President, will the Senator withhold that request?

Mr. DOLE. I withhold my request.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, how much time do I have remaining.

The PRESIDING OFFICER. The Senator from Montana has 5 minutes remaining.

Mr. MANSFIELD. I yield back my time.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following communication and letters, which were referred as indicated:

PROPOSED SUPPLEMENTAL APPROPRIATIONS FOR FISCAL 1974

A communication from the President of the United States transmitting proposed supplemental appropriations for the fiscal year 1974 in the amount of $10,675,000 for the Foreign Claims Settlement Commission, International Radio Broadcasting, and the U.S. Information Agency (with accompanying papers). Referred to the Committee on Appropriations.

SUPPLEMENTAL ESTIMATE OF APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE—THE FOOD STAMP PROGRAM

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Department of Agriculture for the food stamp program, Food and Nutrition Service, for the fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations. Referred to the Committee on Appropriations.

SUPPLEMENTAL ESTIMATE OF APPROPRIATIONS FOR THE DEPARTMENT OF AGRICULTURE—FOREST SERVICE

A letter from the Deputy Director of the Office of Management and Budget reporting, pursuant to law, that the appropriation to the Department of Agriculture for "Forest Protection and Utilization," Forest Service, for the fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations. Referred to the Committee on Appropriations.

HAZARDOUS MATERIALS CONTROL

A letter from the Secretary of Transportation transmitting, pursuant to law, a report on hazardous materials control (with an accompanying report). Referred to the Committee on Commerce.

INVOLUNTARY DISCHARGE OF CERTAIN COMMISSIONED OFFICERS IN THE ARMY

A letter from the Secretary of the Army transmitting a draft of proposed legislation to provide that commissioned officers of the Army in regular grades below major may be involuntarily discharged whenever there is a reduction in force (with accompanying papers). Referred to the Committee on Armed Services.

REPORT OF THE MIGRATORY BIRD CONSERVATION COMMISSION

A letter from the Sercetary of the Interior transmitting, pursuant to law, the report of the Migratory Bird Conservation Commission for the fiscal year ended June 30, 1973 (with an accompanying report). Referred to the Committee on Commerce.

RECOMMENDATIONS, RESOLUTIONS, AND ORDERS ADOPTED AT 19TH ANNUAL SESSION OF NORTH ATLANTIC ASSEMBLY

A letter from the Secretary General of the North Atlantic Assembly transmitting, for the information of the Senate, the texts of the recommendations, resolutions, and orders which were adopted at the 19th Annual Session of the North Atlantic Assembly, held in Ankara in October 1973 (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES

A letter from the Secretary of the Treasury transmitting, pursuant to law, a report of the National Advisory Council on International Monetary and Financial Policies covering the period July 1, 1972, to June 30, 1973 (with an accompanying report). Referred to the Committee on Foreign Relations.

UNITED NATIONS EMERGENCY FORCE IN THE MIDDLE EAST

A letter from the Assistant Secretary of State transmitting a draft of proposed legislation to authorize payment by the United States of its share of the costs of the United Nations Emergency Force in the Middle East (with accompanying papers). Referred to the Committee on Foreign Relations.

REPORTS OF THE COMPTROLLER GENERAL

Two letters from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Audit of Payments From Special Bank Account to Lockheed Aircraft Corp. for the C–5A Aircraft Program During the Quarter Ended September 30, 1973," and a report entitled "Proposed Elimination of the Apportionment Requirement for Appointments in the Departmental Service in the District of Columbia" (with accompanying reports). Referred to the Committee on Government Operations.

ADJUSTMENT OF DEBTS AGAINST INDIVIDUAL INDIANS OR TRIBES

A letter from the Assistant Secretary of the Interior transmitting, pursuant to law, a copy of an order of the Department of the Interior covering cancellation and adjustment of charges of the Government of the United States existing against individual Indians or tribes of Indians (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROCEEDINGS OF THE MEETING OF THE JUDICIAL CONFERENCE

A letter from the Chief Justice of the United States transmitting a copy of the proceedings of the meeting of the Judicial Conference of the United States held in Washington, D.C., on September 13 and 14, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

ORDER OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, a copy of an order suspending deportation in the case of a certain alien (with accompanying papers). Referred to the Committee on the Judiciary.

ORDERS SUSPENDING DEPORTATION

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders suspending deportation, together with a list of the persons involved (with accompanying papers). Referred to the Committee on the Judiciary.

ORDERS ENTERED IN THE CASES OF CERTAIN ALIENS FOUND ADMISSIBLE TO THE UNITED STATES

A letter from the Commissioner of Immigration and Naturalization transmitting, pursuant to law, copies of orders entered in the cases of certain aliens who have been found admissible to the United States (with accompanying papers). Referred to the Committee on the Judiciary.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE RELATING TO CERTAIN PERSONS

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered relating to certain persons (with accompanying papers). Referred to the Committee on the Judiciary.

ORDERS OF THE IMMIGRATION AND NATURALIZATION SERVICE

A letter from the Commissioner of the Immigration and Naturalization Service transmitting, pursuant to law, copies of orders entered in the cases of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORTS CONCERNING VISA PETITIONS

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

REPORT OF THE NATIONAL ADVISORY COUNCIL ON EDUCATION PROFESSIONS DEVELOPMENT

A letter from the Chairman of the National Advisory Council on Education Professions Development transmitting, pursuant to law, a report entitled "Evaluation of Education: In Need of Examination" (with an accom-

panying report). Referred to the Committee on Labor and Public Welfare.

REPORT ON THE SPECIAL BRIDGE REPLACEMENT PROGRAM

A letter from the Secretary of the Interior transmitting, pursuant to law, a report on the special bridge replacement program as authorized and directed by the Federal-Aid Highway Act of 1970 (with an accompanying report). Referred to the Committee on Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submited:

By Mr. KENNEDY (for Mr. BIBLE), from the Committee on Interior and Insular Affairs, with amendments:

S. 210. A bill to authorize the establishment of the Boston National Historical Park in the Commonwealth of Massachusetts (Rept. No. 93-599).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. BEALL:

S. 2778. A bill to amend the Internal Revenue Code of 1954 to remove the 2-year limitation during which an individual may qualify as a surviving spouse. Referred to the Committee on Finance.

By Mr. MOSS:

S. 2779. A bill to authorize the Secretary of the Interior to construct necessary drainage works for the Vernal Unit of the Central Utah Project and the Emery County Project, participating projects, Colorado River Storage Project. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BEALL:

S. 2778. A bill to amend the Internal Revenue Code of 1954 to remove the 2-year limitation during which an individual may qualify as a surviving spouse. Referred to the Committee on Finance.

Mr. BEALL. Mr. President, I send to the desk a bill designed to correct an "inequity" in our Federal tax laws with regard to widows with children. This bill would extend to such widows on a permanent basis the right to continue to take advantage of the joint return tax rate.

This measure is identical to S. 2234, which I introduced on July 8, 1971. No action, unfortunately, was taken on the proposal. I hope that the House Ways and Means Committee and the Senate Finance Committee, during consideration of tax reform in this Congress, will take action on this bill.

Under present law, a widow may file a joint return for the taxable year in which her spouse dies. In addition, a widow, who has not remarried and who maintains a household for a dependent child or stepchild, may also use the joint return tax rate for 2 additional taxable years following the year in which the spouse died.

Certainly the death of a father to a family is not only a great personal loss, but often is an economic disaster for a family. This problem was first brought to my attention by a Maryland constituent, Mrs. Richard Schwartz, who had this to say about the problem:

The family's greatest casualty is the loss of the father, companion, head of the household and breadwinner. Yet, the widow and children are taxed at a higher rate on the income received than couples filing joint income tax returns. Why can't widows claim the true loss (casualty) of income? Because this inequity requires action by Congress for any change. The widows do not have a lobby representing their cause in Congress. They are too busy trying to make up for the loss of a father to their children and supporting and educating the children to the best of their ability.

Thus, this precludes the widows of organizing as a group to lobby Congress for a tax that meets "ability to pay." This has always been a basic principle underlying the income tax laws of the United States. The widow with children pays 20% more taxes for equivalent income than other family units.

Is not the loss of a father the greatest loss the family experiences; and yet the family pays 20% greater tax for this loss.

I agree, Mr. President, that the loss of the father in most cases is a great economic blow to a family, a family which then needs as much help as it can in order to continue, following the loss of one who is normally the principal breadwinner.

To do equity for such widows with minor children and to ease her problems and burdens somewhat, I reintroduce this measure today and would hope that the Congress will give favorable consideration to it.

By Mr. MOSS:

S. 2779. A bill to authorize the Secretary of the Interior to construct necessary drainage works for the Vernal unit of the Central Utah project and the Emery County project, participating projects, Colorado River storage project. Referred to the Committee on Interior and Insular Affairs.

DRAINAGE WORKS FOR VERNAL AND EMERY RECLAMATION PROJECTS

Mr. MOSS. Mr. President, I am today introducing a bill to provide for additional construction of drainage works and amendments to the respective repayment contracts for the Vernal unit, Central Utah project, and the Emery County project. Both are participating projects under the Colorado River storage project.

The repayment contract negotiated with the Uintah Water Conservancy District and signed July 14, 1958, provides for the construction of all drainage facilities for the Vernal unit which the Secretary of the Interior feels are necessary for project purposes at a cost not to exceed $675,000. Such costs are to be held within the limit of funds made available by Congress.

Similarly, the repayment contract with the Emery Water Conservancy District of May 15, 1962, provides for the construction of drainage facilities which the Secretary of the Initerior says are necessary at a cost not to exceed $990,000, and again within the limit of funds made available by Congress.

Since the time of the contract negotiations, water delivery features for the Vernal unit have been completed for 14,700 irrigable acres. In the operation of the project it has become evident that more acres have a drainage deficiency than originally anticipated. Project drains have been completed and are now serving about 1,250 acres. Drainage facilities are needed for about 3,450 additional acres in order to complete a viable project capable of yielding the benefits agreed upon at the time of authorization.

Delivery features on the Emery County project have been completed for 18,775 irrigable acres since the contract was negotiated. There is also a drainage deficiency on this project. Project drains have been completed and are now serving about 440 acres. Facilities are needed for about 1,350 more acres to make the project viable.

The present estimated cost of the entire Vernal unit drainage system is about $2 million, an increase in cost from the $657,000 estimate. The increase results from the additional area requiring drainage together with escalation of construction costs. The estimated cost of the entire drainage system of the Emery County project is about $2.2 million, an increase in the original estimated cost of $990,000. Again, it also results from increased drainage needs and increased construction costs.

Legislation is required to authorize the construction of the additional drainage works for these two projects, and it is also necessary to amend the repayment contracts in both instances to increase the cost ceiling for drainage facilities that are considered necessary to sustain the crop production anticipated under the original project authorization without increasing the obligation of the water users.

Repayment of the additional costs on both projects would not require additional appropriations, but would be taken from power revenues of the Colorado River Basin Fund.

I ask unanimous consent that a copy of the bill I am introducing today be printed in the RECORD at the close of my remarks.

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

S. 2779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to construct drainage facilities for the Vernal Unit of the Central Utah Project and the Emery County Project to the extent that he determines necessary for the sustained crop production on the irrigable lands of these projects. The Secretary is further authorized to negotiate and execute amendments to contract No. 14-06-400-778, dated July 14, 1958, between the United States and the Uintah Water Conservancy District and Contract No. 14-06-400-2427, dated May 15, 1962, between the United States and the Emery Water Conservancy District to provide for the cost of such drainage works to be paid from the Colorado River Storage Project basin fund without increasing the repayment obligation of the water users of either project.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1283

At the request of Mr. JACKSON, the Senator from California (Mr. CRANSTON) was added as a cosponsor of the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize resources of the public lands available for said development corporations; and for other purposes.

S. 2650

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2650, a bill to provide for the early commercial demonstration in residential housing and other buildings of technology for solar heating and combined solar heating and cooling by the Secretary of Housing and Urban Development, to establish a National Solar Energy Coordinating Council, and for other purposes.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973—AMENDMENTS

AMENDMENT NO. 763

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

Mr. BELLMON submitted an amendment intended to be proposed by him to the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal enregy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations, and for other purposes.

AMENDMENT NO. 764

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

Mr. DOMINICK submitted an amendment intended to be proposed by him to the bill (S. 1283), supra.

AMENDMENT NO. 765

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

Mr. SCHWEIKER submitted an amendment intended to be proposed by him to the bill (S. 1283), supra.

AMENDMENT NO. 766

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

Mr. HART (for himself and Mr. LONG) submitted an amendment intended to be proposed by them jointly to the bill (S. 1283), supra.

AMENDMENT NO. 767

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

Mr. BUCKLEY. Mr. President, on behalf of Senators ALLEN, BARTLETT, BELLMON, BENNETT, BROCK, COOK, COTTON, CURTIS, DOLE, DOMENICI, DOMINICK, FANNIN, FONG, HANSEN, HATFIELD, HELMS, HRUSKA, MCCLURE, PEARSON, RANDOLPH, WILLIAM L. SCOTT, STEVENS, TAFT, THURMOND, TOWER, and myself, I submit an amendment to the bill (S. 1283) the National Energy Research and Development Policy Act of 1973, and I ask unanimous consent that its text be printed in the RECORD at this point.

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

AMENDMENT NO. 767

TITLE III—AMENDMENTS TO NATURAL GAS ACT

SEC. 301. This title may be cited as the "Natural Gas Act Amendments of 1973".

SEC. 302. Section 1(b) of the Natural Gas Act is amended by inserting before the period at the end thereof the following:

"or to the sale of natural gas delivered for the first time in interstate commerce or sold in interstate commerce upon the expiration of an existing contract on or after the effective date of the Natural Gas Act Amendments of 1973, or produced from wells commenced on or after such date."

SEC. 303. Section 2 of the Natural Gas Act is amended by adding at the end thereof the following:

"(10) 'affiliate' of another person means any person directly or indirectly controlling, controlled by or under common control with such other person".

SEC. 304. Section 5 of the Natural Gas Act is amended by inserting at the end thereof the following:

"(c) In any case where a natural gas company purchases natural gas from an affiliate the Commission may disallow any portion of a rate or charge by such company which is based on the amount paid for such purchase in excess of current prices paid for comparable gas to non-affiliates.

"(d) The Commission shall not authorize any increased rate or charge for natural gas on the basis of the renegotiation of any contract for the sale of natural gas, being carried out before the effective date of the Natural Gas Act Amendments of 1973, prior to the date on which performance is completed under such contract in accordance with its terms; provided that the Commission may approve such renegotiation where adjustment in contract terms is required to assure optimum production from producing reservoirs."

AMENDMENT NO. 768

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

Mr. METCALF submitted an amendment to be proposed by him to the bill (S. 1283), supra.

AMENDMENTS NOS. 769, 770, 771, AND 772

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

Mr. BELLMON submitted four amendments intended to be proposed by him to the bill (S. 1283), supra.

AMENDMENT NO. 773

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

Mr. NUNN submitted an amendment intended to be proposed by him to the bill (S. 1283), supra.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 774

At the request of Mr. Moss, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of amendment No. 744, intended to be proposed to the bill (H.R. 8214) to modify the tax treatment of members of the Armed Forces of the United States and civilian employees who are prisoners of war or missing in action, and for other purposes.

NOTICE OF HEARING ON THE OUTER CONTINENTAL LEASING PROGRAM

Mr. METCALF. Mr. President, the oil and gas resources of the Outer Continental Shelf can play a major role in meeting the Nation's short and long term oil and gas needs. One of the critical factors in the development of these resources is the leasing policies and practices followed by the Department of the Interior. In order to begin a reexamination of these policies and practices, the Subcommittee on Minerals, Materials, and Fuels has scheduled an information hearing on the Outer Continental Shelf oil and gas leasing program for Tuesday, December 18. We have invited four witnesses representing Government, industry, and independent analysts to comment on the program. We have specifically asked them to address the following questions:

First, what are the estimated oil and gas reserves on the OCS? If possible, break this down by Atlantic, Gulf of Mexico, Pacific, and Gulf of Alaska.

Second, what is the rationale for the OCS leasing schedule released by the Burea of Land Management on July 11? What is the estimated annual and total production of oil and gas if the schedule is followed? What percentage of national needs would this production meet?

Third, what are the major obstacles—administrative, economic, environmental, legal, technical, and so forth—to implementation of this schedule and to acceleration of it?

Fourth, would alternative leasing systems, such as royalty bidding rather than bonus bidding, lead to increased production?

Fifth, what technological and regulatory improvements have been made in the last 5 years—since the Santa Barbara oil spill—in OCS development?

Sixth, how does OCS oil and gas production compare with alternative energy sources, including upland oil and gas production, oil shale, and coal, with respect to its environmental hazards, economic and technological feasibility, potential for energy production, and difficulty of administrative regulation?

I hope that all interested Senators, their staffs, and members of the public will attend this hearing. It will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

NOTICE OF HEARING ON OIL SHALE LEASING PROGRAM

Mr. METCALF. Mr. President, last week the Secretary of the Interior announced approval of a prototype oil shale leasing program for commercial-shale oil production on public lands in Colorado, Utah, and Wyoming. Oil shale has long been recognized as a potential domestic source of an enormous amount of oil. In the past, it has not been technologically feasible or economically practical to develop oil shale reserves, the bulk of which are owned by the Federal Government. Furthermore, there are substantial environmental risks associated with the mining and processing of oil shale. The prototype program is designed to provide information which will help us to determine whether our 600-billion-barrel oil shale reserves can be developed at acceptable economic and environmental costs.

Members of the Subcommittee on Minerals, Materials, and Fuels and other Senators have long been interested in and concerned about oil shale development. The subcommittee intends to review the prototype leasing program closely. To begin this review, the subcommittee has scheduled an information hearing on Monday, December 17. Representatives of the Interior Department will give the subcommittee a complete briefing on the leasing program. I hope that all interested Senators, their staffs, and members of the public will attend this hearing. It will begin at 10 a.m. in room 3110, Dirksen Senate Office Building.

NOTICE OF HEARING ON NOMINATION

Mr. WILLIAMS. Mr. President, I wish to announce that the Committee on Labor and Public Welfare will hear testimony on the nomination of John H. Powell, Jr., of Maryland, to be a member of the Equal Employment Opportunity Commission on Wednesday, December 12, 1973. The committee's hearing will be held in room 4232, Dirksen Senate Office Building, and will begin at 10 a.m.

ADDITIONAL STATEMENTS

THE ENERGY PROBLEM

Mr. TOWER. Mr. President, I am very pleased by the announced creation of a new agency—a single agency—to oversee all aspects of the energy situation. The existing structure is entirely unworkable and simply is unable to respond quickly and unequivocably to the numerous problems plaguing our Nation with respect to energy and energy-related industries.

Recognizing the numerous cross-currents and cross-purposes which exist in the executive branch and the damaging effects these were having on our essential energy-related industries, last week I called for an immediate end of Cost of Living Council control on these industries. I am pleased that this latest announcement moves in that direction by centralizing the decisionmaking process in one agency whose propensity for conflicting and counterproductive guidelines, it is hoped, will be less than has been experienced under the present arrangement.

I am also pleased by the selection of William E. Simon to create and head the new agency. He is a man of untiring energy, intellect, and enthusiasm and is uniquely qualified for this assignment because he is one of the country's foremost authorities on "markets."

He knows the tremendous advantages of the free market system, yet he is also familiar with and able to identify the undesirable traits in the market system. I am much more confident not only that we will come out of this energy crunch in the best manner possible under the circumstances but also that the strengths, vitality, and innovativeness of the free market system will be utilized to the utmost and in the best interest of the American citizen.

FOREIGN AID

Mr. BIDEN. Mr. President, near the end of October, I received an interesting letter from one of my constituents, Mr. Robert M. Penn of Wilmington. Mr. Penn's letter addressed itself to our foreign problems. I discussed Mr. Penn's views in a private conversation with another Senator. I now feel, however, that Mr. Penn's position deserves the attention of all my colleagues. And accordingly, Mr. President, I ask unanimous consent that the entire text of Mr. Penn's letter be printed in the RECORD.

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

OCTOBER 22, 1973.

DEAR SIR: I have no objection to selling the military supplies needed by Israel or to any other nation but even though I was a "hawk" on Vietnam I don't want even one American Serviceman or a so-called adviser sent to fight or to advise in the Mid-East War.

I have no objection to selling military or civilian supplies needed by any nation to defend its freedom but I want you to enter a separate bill or a rider that states, specifically, that neither the President, nor any Cabinet member, nor any government agency may cancel, reduce or settle any debt owed to the United States for less than one hundred cents to the dollar. The sole exception would be that any nation that pays its debt on time, in gold, silver or oil would be given a reduction not to exceed ten percent of the total debt and the interest on such a debt.

I think that such a bill should have a recorded, not a voice vote by both the Senate and the House.

Would you please enter such a bill or a bill with minor changes or if you wouldn't enter such a bill would you please explain why.

I also do not like the United States threatened as the Arab nations did on oil. I am tired of the United States being played for a fool, (I wish we could get some diplomats or officials who could bargain in the U.S. favor once in a while) therefore I want economic retaliation by reduction of the supplies we send to the nations that threaten us and their removal from "favored nation" status.

The reason for asking for such a bill is that it seems that the President and Congress can appropriate vast sums for foreign nations that are later canceled even though we are repayed with criticism, hatred and aid to our enemies and it is even more ironic that this is done while we cannot do the same for our own aged, ill, and poor.

Also, Congress should stop playing games and protect the American people from such stupid deals as the wheat deal with Russia. Congress can't blame it all on the President.

Sincerely,

ROBERT M. PENN.

FUEL SHORTAGE

Mr. BEALL. Mr. President, last week I commended the Department of the Interior and its Office of Petroleum Allocation for revising its procedures so as to allow priority users, such as farmers, mass transit, and energy-related industries to apply directly to their suppliers for additional fuel allocations, without formal petition to or approval from Federal officials. Unfortunately, this order affected only diesel fuel, and at that time I emphasized my concern that such procedures ought to be expanded to include gasoline.

Such action has not taken place yet; and as a result, America's farmers still face the real possibilities of disaster. To illustrate this situation, I ask unanimous consent that a letter I recently received from the Honorable Young D. Hance, secretary of agriculture for the State of Maryland, and an enclosed summary detailing the gasoline situation in Maryland, be included at the conclusion of my remarks. Additionally, I ask unanimous consent that a copy of a letter I have written today to the Honorable Rogers C. B. Morton, Secretary of the Interior, be printed in the RECORD.

Mr. President, I once again call upon the Federal Government to expedite the flow of gasoline to our Nation's farmers and marine industries before a food shortage becomes as real as the current energy crisis.

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

STATE OF MARYLAND,
DEPARTMENT OF AGRICULTURE,
Annapolis, Md., November 28, 1973.

HON. J. GLENN BEALL, JR.
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR BEALL: The enclosed statement pertaining to the fuel shortage in Maryland is sent to you in order to keep you informed regarding the agricultural situation. Something needs to be done immediately in order that we not find chaos in the agriculture and food industry.

Sincerely,

YOUNG D. HANCE,
Secretary.

GASOLINE SITUATION IN MARYLAND

Although the voluntary allocation program of gasoline remains in effect, our recent experiences indicate that generally gasoline suppliers are disregarding the procedures for supplying priority users.

This résumé concerns itself with farmers, related farm businesses, and the food industry. Prior to November 15, 1973, we conducted a very effective program to obtain supplemental supplies of gasoline for priority users

in the aforementioned categories. This was accomplished by the users contact with local ASCS (Agricultural Stabilization and Conservation Service) offices which in turn referred requests for supplemental gas supplies to the State ASCS office. The State ASCS office then referred requests to the State Department of Agriculture, and with the cooperation of the Gasoline Tax Division of Maryland, were able to secure gasoline supplies to satisfy the requests. Many times this was accomplished in a matter of hours; seldom longer than two days. This method was securing additional gasoline but now it is unsuccessful.

Since November 15th, farmers and other priority users are being denied additional delivery. Efforts by ASCS through local distributors have met with little success. Local distributors refuse to deliver an excess of allocation without further authority. Consequently, county ASCS offices have referred these cases to the State ASCS office. Upon contact, numerous suppliers suggested that the user call their office; this method was used on November 26th but without success. In most cases, this procedure resulted in "buck passing".

EXAMPLES OF CURRENT PROBLEMS

(1) Two dairy farmers in Harford County are completely out of gas. Their distributor advises he is completely out of gas and recommended contact with the Exxon office in Baltimore. Farmers must clean barns daily to meet Health Department specifications. They need to grind feed in order to continue their operations. One of these dairy farmers has 30 acres of corn standing in the field and cannot harvest.

(2) An individual operating a seafood business is out of gas but has continued to operate by obtaining gasoline from the State of Virginia. He was denied gas at local service stations. His distributor has advised him that he cannot supply him gas.

(3) A number of businesses engaged in spreading lime and fertilizer on farms are out of gas. Attempts to secure supplemental supplies have been unsuccessful. Attempts made by the ASCS offices to supply these requests have failed. There appears to be little ASCS or anyone else can do to obtain additional gasoline for agriculture.

DECEMBER 4, 1973.

Hon. ROGERS C. B. MORTON,
Secretary of the Interior,
U.S. Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: As you know, on November 20 I contacted you with respect to the delays being caused by slow administrative action on the movement of fuel to our Nation's farmers. I was therefore pleased at the new procedures subsequently announced by the Office of Petroleum Allocation which revised the supply regulations with respect to diesel fuel. However, I must contact you again today to reemphasize the problems facing agriculture, specifically as they relate to a shortage of gasoline to these priority users.

In spite of their categorization as priority users, farmers and watermen are not receiving the additional allocations of gasoline needed for essential purposes. I urge you to immediately move to rectify this situation by insuring that priority users receive sufficient quantities of all fuels for essential agricultural and marine operations. The Federal Government must take steps to expedite the flow of fuel to our food-producing industries before a food shortage becomes as real as the energy crisis.

With best wishes, I am

Sincerely yours,

J. GLENN BEALL, Jr.

A DANGEROUS LAW

Mr. ABOUREZK. Mr. President, I have long advocated that the recently passed war powers bill was little more than an artificial attempt to strengthen the resolve of future Congresses to meet the Presidential challenge to warmaking authority. The war powers bill abandons the constitutional requirement that no war be entered into without prior congressional declaration. It gives Presidents the right to claim that Congress has legitimized executive warmaking.

Although the recent override of President Nixon's veto on the bill was hailed by almost everyone as a reassertion of congressional authority and responsibility, the frightening truth is that this bill may come back to haunt this Congress even sooner than those of us who opposed it thought possible.

With the possibility of a new outbreak of war in Southeast Asia becoming increasingly more of a probability, Secretary of Defense Schlesinger and other high administration officials have already forewarned the Congress and the American people that the President interprets the war powers bill as allowing him complete freedom and independence to commit the United States to new bombing missions and even to moving troops into South Vietnam should he consider it necessary for a period of up to 60 days. We can only hope that he consults with Congress in the spirit of unity before making such a decision.

The Senator from Missouri, Senator EAGLETON, has devoted a great deal of time and effort into this question. He was one of the leaders in opposing the conference version of the war powers bill and has continued to speak out on this issue. Recently, he wrote an excellent and thoughtful analysis of the bill which appeared in the New York Times. Senator EAGLETON raises some very compelling arguments which I believe everyone ought to consider.

I ask unanimous consent to have this analysis printed in the RECORD.

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

A DANGEROUS LAW

(By Thomas Eagleton)

WASHINGTON.—Congress's recent override of President Nixon's war powers veto has been acclaimed as a "historic recapture" of the Congressional prerogative to declare war. But the opposite is true. After struggling for three years to re-establish its primacy in the war-making area, Congress has now legally relegated itself—unconstitutionally, in my opinion—to the secondary role it has sadly and mistakenly accepted in the contemporary era.

According to the new law, a President must come to Congress only *after* American forces are committed to battle. Despite disclaimers contained in the legislation that the constitutional schema is left undisturbed, the recently enacted formula allows up to ninety days of unilateral Presidential war-making before any specific Congressional consent is required.

Under a "Purpose and Policy" section, which has no statutory effect, the bill states that the President's war powers "are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by an attack on the United States . . . or its armed forces." That is acceptable language, but it is legally meaningless: it is, to use a White House term, inoperative. Lest this escape the President's attention, the conferees have stated in their managers' report that the operative sections of the bill "are not dependent upon the language" in the "Purpose and Policy" section. Thus the enacted law completely skirts the constitutional impasse over prior authority that originally inspired war powers legislation.

The President assumes the inherent right to initiate war. By remaining silent about this assertion and attempting only to impose an after-the-fact review, Congress has new provided a legal basis for the President's erroneous claim. Instead of curbing executive power, the bill has dangerously expanded it.

The Constitution says "Congress shall declare war," not "Congress shall stop war." The legislative branch is simply not constituted to act as a brake after the flag has been committed.

It will now take a majority vote to stop a Presidentially initiated war. But even during the long years of our most unpopular conflict, how many times did cut-off amendments muster even a simple majority? Nine years later and only after the troops came home was Congress willing to act to stop the Indochina war. And even then, the end came by compromise, on the President's terms.

If Congress is going to revitalize the war powers clauses of the Constitution it must spell out those emergency powers which adhere to the President by reason of his status as Commander in Chief. We must either ratify or reject previous court decisions which have recognized his limited unilateral authority to repel attacks upon the nation, its forces and its citizens abroad. And in all other cases, we should make clear that Congress must authorize involvement in hostilities before the flag is committed.

When the President vetoed the War Powers Resolution he mistakenly saw limitations on his power where in reality the opportunity for expansion exists. The 90-day clause, which was cited in the veto message as restricting executive action, will no doubt soon be transformed into the 90-day battle plan.

We cannot ignore the Constitution, even to deal with those who refuse to be guided by it. The war powers resolution is a dangerous law, and it should be amended before it is used to undermine the intent of that great document.

It has been reported that the Administration is reviewing the war powers resolution to determine whether it can be used as legal authorization for a resumption of U.S. military involvement in Indochina. I do not believe that it can. Public Law 93–126 contains a provision stating that no funds can be expended for combat activity in Indochina "unless specifically authorized hereafter by the Congress." The war powers resolution, while a blank check for all other areas of the world, cannot be construed as specific authorization to resume bombing in Indochina within the meaning of the public law.

CARPOOLING

Mr. DOMENICI. Mr. President, a few weeks ago, I was discussing with my staff the suitability of establishing car pooling plans in a number of cities in my home State of New Mexico and particularly in

Albuquerque, our largest, which is the home of a number of large employers which makes carpooling even easier. As it turned out, the good people of Albuquerque also recognized those possibilities. Yesterday, this news article, entitled "Carpool Plan Set for City," appeared in the Albuquerque Journal.

According to the article, the concept was developed by Darrell Sever of Theron Development Product Corp. of Albuquerque, an electronics firm in alarm-systems. For a membership fee of $3 for processing, each potential carpooler would receive the names of 20 persons headed daily in the same direction at the same time and returning home daily at the same time. The first four names are those living the closest. The matching of the names would be done on a Theron-owned computer programed by Phillip Anderson, president of Theron. Mr. President, I ask unanimous consent that this news article be printed in the RECORD.

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

CARPOOL PLAN SET FOR CITY

A new car pool computer program for Albuquerque is scheduled to be kicked off Wednesday as an attempt to cope with the energy crisis and particularly a gasoline shortage.

Known as Albuquerque Car Pool Coordination, anyone within the city—for a cost of $3—can be assured of a riding partner to and from work daily.

The concept, developed by Darrell Sever, uses the computers of Theron Development Product Corp., of 317 Commercial NE, to match up drivers and riders leaving the same sections of the city at the same times—to and from work.

"Actually, this is a pilot program which will determine if we extend it to other parts of the nation. On Wednesday we intend to saturate the city with a leaflet explaining the concept—asking those interested in using a car pool to return the information desired and $3 to us," said Sever.

The success of the program depends on a large return so that persons can be properly matched. "We believe we can reduce fuel consumption (gasoline) by as much as 50 per cent if people will make use of our service," he added.

The concept works like this. The $3 fee is an annual membership fee. On payment of the fee and information requested on the membership form, the new member will receive 20 names of persons headed daily in the same direction at the same time and returning home daily at the same time.

"The matching of names comes from a computer programmed by Phillip Anderson, president of Theron Corp. The first four names are names of persons living closest to the new member."

Thereon Corp. was incorporated in July, 1973, as an electronics firm specializing in alarm systems.

Mr. DOMENICI. Mr. President, two major themes jump out at me from this article. First, I am awed and marveled again by the initiative, ingenuity, and adaptability of the free enterprise system that we have here in the United States. Just when some factions begin to question its effectiveness, they do something like this. Here we have a national energy crisis, a possibility of gas rationing, and a national call for voluntary carpooling to conserve energy, and our free enterprise system is able to respond magnificently. Take a city with initiative like Albuquerque and a company with an idea like Theron, and they come up with a plan that not only achieves the objective brilliantly, but also can sustain itself, or even potentially show a profit, on only a $3 annual membership charge. They estimate that with good participation by the people of Albuquerque, they can reduce gasoline consumption by 50 percent. Think of it; 50 percent. That to me is the free enterprise system in its glory.

The second major theme that I get from this article is the tremendous potential value of carpooling in our overall national effort to conserve energy. If we could get an Albuquerque type plan going in every major and middle-sized city in this country, we would not have an energy crisis today. Some time ago, I introduced a bill providing for demonstration grants and economic incentives for carpooling. Essentially similar language was contained in an amendment by the distinguished Senator from Minnesota (Mr. HUMPHREY) and of which I was an original cosponsor, which we passed with the Emergency Energy Conservation bill that now is under consideration by the House. I think it is incumbent on us that we take every possible step to see that this language, either as an amendment or as a clean bill, be enacted into law. Carpooling has the advantages not only of achieving our objectives with ease and with existing technology, but also of bringing immediate energy conservation.

A POTATO FAMINE APPROACH TO THE FUEL CRISIS

Mr. HUMPHREY. Mr. President, it appears that the White House power struggle over handling of the fuel shortage has reached at least a temporary conclusion. And it appears the winners were those opposed to rationing—the so-called free market forces.

It is true that a goodly number of economists and others feel that the way to ration any product in limited supply is simply to let nature take its course, so to speak. That is, to let the market price rise to whatever level the purchaser can bear.

Putting aside the immediate question of whether or not to ration gasoline and other fuel products, let us consider for a moment another example of the use of free market principles to handle a problem of scarcity.

Prof. Paul A. Samuelson, professor of economics at the Massachusetts Institute of Technology, was the author of an article in Sunday's New York Times. He uses a great example of the effectiveness of free market principles—the Irish Potato Famine of 1845 to 1849.

When the potato crop failed, the wheat price was allowed to rise to clear the market, and indeed, a little wheat from America was sold to the Irish because of the high price the Irish would pay. In turn, that wheat did feed those who could afford it, and those with wheat to sell profited.

Professor Samuelson noted that in classical economic terms there was no food crisis.

"As a classical economist of the day would say," he wrote:

Why speak of a food crisis? There is no crisis. There is simply a need for a higher price to ration the excess demand down to the scarce supply, to coax out higher supplies in the future.

So what is the matter with this approach, you might ask. I will tell you what is the matter with it. If you will check your history books you'll find out that thousands of men, women and children died of starvation while this "solution" was working itself out.

In strictly theoretical terms, scarcity may be an impossibility, but you try to tell that to a man or woman who is supporting a family which no longer can enjoy a warm home or electric lights at night. Worse yet, try to tell that to someone who just lost a job because an employer could not get enough fuel to carry on the work.

The free movement of price equates supply with demand, the theory goes. But that means only those who can afford the product can buy it. Food and energy and jobs for the person who is well off. Hunger and dark, cold houses and unemployment for the poor and unfortunate.

Mr. President, I believe that the fuel policy now espoused by the top administration spokesmen—while it may be interesting economic theory, it is bad public policy and must be evaluated by how it affects the general welfare, the quality of life of most Americans.

Otto Eckstein, a former White House adviser and now a Harvard professor, has been quoted recently in the Wall Street Journal as saying if the Nixon administration decides to ask a 30-cent-a-gallon gasoline tax to discourage consumption, the increase in inflation would be "very spooky." He estimated that if such a tax were imposed on January 1, the Consumer Price Index would be pushed up for the first quarter to a 19.3-percent annual rate.

And yet, the Chairman of the President's Council of Economic Advisers has been quoted this week as saying that allowing gasoline prices to rise is preferable to rationing.

This is one Senator who believes that we cannot take the theoretical approach to the fuel shortage. I have said it before on this floor and I will say it again. If rationing is the only way to evenly and fairly distribute fuel supplies this winter, then we'd better get on with it.

Let us not apply the "Potato Famine" approach to the distribution of our precious fuel supplies. The stakes are too high.

Mr. President, I request unanimous consent that Professor Samuelson's article of December 2 be printed in the RECORD.

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

NOT A DROP TO SPARE

(By Paul A. Samuelson)

CAMBRIDGE, MASS.—Political economy, which was long the science of scarcity, tells us how an energy crisis ought to be handled. Measuring President Nixon's limited proposals against its principles, we must conclude that his is a minimum program that can work out well only if the flow of Arab oil is restored soon after the turn of the year.

When any good is scare, its limited supply must somehow be rationed.

Letting its market price be bid up to whatever level is needed is the traditional capitalistic way of meeting shortages. It does work according to its own logic—sometimes too well. The Irish potato famine was handled in this fashion. When the potato crop failed, letting the price of wheat rise to clear the market did draw some little wheat from the New World. It did discourage people from wasting wheat. It did put wheat into the hands and stomachs of those with cash purchasing power and, of course, enrich those with stocks of wheat. As a classical economist of the day would say, "Why speak of a food crisis? There is no crisis. There is simply a need for a higher price to ration the excess demand down to the scarce supply, to coax out higher supplies in the future." Read Cecil Woodham-Smith's book, "The Great Hunger," to learn how literally millions of men, women, and children died of hunger from this capitalistic solution in the 1845–49 Irish potato famine.

Outright rationing and allocations of scarce goods is the command solution used in Eastern Europe or China, and also in most capitalistic countries in time of war when shortages are to be equitably shared.

Finally, a mixed economy can put taxes on fuel oil and gasoline short in supply, in demands, offsetting the energy taxes by rebates in the income tax. This achieves a greater measure of equity at the same time that it gives every citizen and corporation an incentive to economize in the use of fuel and gasoline. (Mathematically equivalent to this order to raise their prices and limit their is any scheme, like the one I recently proposed, in which ration tickets are made legally salable in a white market. When you realize that not using your ration ticket for unimportant driving will save $1 a gallon, you are induced to conserve fuel without any bureaucratic prodding.)

Alas, President Nixon has relied not on any of these tried and true methods. Instead he is taxing our limited supply of patriotism and civic altruism, and is asking us to restrict largely voluntarily, our use of heat and gasoline. This can be counted on in the short run. But patriotism is an exhaustible resource that we may need to husband for worse crises to come. And it tends to evaporate when cooperating citizens see chiselers and finaglers being rewarded for their lack of civic conscience.

That leaves President Nixon dependent on congestion rationing, the most inefficient form of all. If we have to spend enough time waiting in lines on Saturday nights and Monday morning that will in the end chop down the demand to the size of the Procrustean bed of reduced supply.

What, though, of the longer run? Can Europe and the United States operate the rest of this decade at the mercy of diplomatic events in the Middle East? We should be getting on with the task of generating alternative sources of supply to the Persian Gulf. This means subsidies to crash programs for:

nuclear safety and ecological safeguards.

liquefaction and gasification of coal.

altered car designs and public-transport facilities.

It also means pervasive changes in the way we live. Jolly fireplaces that operate in summer with air conditioning to remove their heat must go the way of other Veblenian pathologies of conspicuous consumption.

Lastly, the oil monopoly of O.P.E.C. predates the October Mideast war and will remain after any peace settlement. Fire cannot be fought, I think, by fire if by this we mean that the West is to refuse the Arabs wheat so long as they refuse us oil. Aside from the morality of such a proposal it is tactically and strategically silly to think that we possess any such leverage with countries that are swimming in gold and also have Russia as an ally.

To fight monopoly you need countervailing power: organization of consuming countries—so that Holland and Japan are not left in the lurch, as each helpless nation is one by one to be picked off by the monopolists. Also, we should provide premium payments to Iran or Iraq or any source that will supply oil when others won't. (One pays more for moonlight than for sunlight, not because the moon's luminosity is greater, but because the moon shines its rays at night when we need it most!)

Yet, in the long run our primary need is for sources of supply alternative to the O.P.E.C. powers, whether these alternative supplies come from Texas, the North Slope, or the fusion laboratory yet unperfected.

PUBLIC DEBT LIMIT—CAMPAIGN FINANCING BILL

Mr. ROTH. Mr. President, I strongly believe that campaign reform is among the most important matters before the Congress. Despite this conviction, I did not think it was appropriate to attempt to ramrod through Congress a plan for the Federal financing of Presidential election campaigns, by suddenly attaching it as a completely nongermane amendment to the totally unrelated public debt ceiling bill.

Reform of the Presidential election campaign process is too important a matter for Congress to deal with it in such a cavalier manner. Public confidence in government must be restored; and Congress can only do this by passing responsible legislation which takes effect before the next Presidential election. I am determined that we will have legislation which is carefully considered and comprehensive in coverage.

One of the reasons I think the public-financing amendment to the debt limit bill was premature was that we do not yet have the report of the Watergate Committee. The whole purpose of the Senate in chartering the Committee on Presidential Campaign Activities—the Watergate Committee—by a unanimous vote of 77 to 0 on February 7, 1973, was to obtain a full investigation of all illegal and improper activities in the 1972 election, and most importantly to obtain a report from the committee by February 1974 on recommended legislation to prevent abuses and safeguard the Presidential electoral process. Since the amendment we had before us would first apply to the Presidential election of 1976, I thought there was ample time to allow the Ervin committee to complete its work, and to make its recommendations.

It is also true, as Senator ERVIN pointed out on the floor on December 2, the Rules Committee is still studying the Kennedy/Scott financing proposal when the Kennedy amendment was abruptly and unexpectedly offered as an amendment to the debt ceiling bill. Senator ERVIN termed the amendment's requirement that campaigns be financed from the Federal Treasury extreme, and raised several questions, which I agree, the Rules Committee should consider before it approves this proposal. I might just note that Senators GURNEY, WEICKER, and TALMADGE—also members of the Watergate Committee—voted against adding this hastily introduced financing measure.

It is for these reasons that I am glad that the Senate decided to delay action on public financing until early next year. It will enable the Senate to consider election reform fully and separately, on its own merits, after the reports from the Watergate and Rules Committee become available.

This approach seems to be far more responsible. It is more likely to yield legislation that will stand up to court tests, that will be comprehensive in its coverage, and that will have fewer of the sort of loopholes and weaknesses that legislation adopted hastily by parliamentary surprise maneuver too often contains.

OIL CONTRIBUTIONS, PROFITS, AND PUBLIC POLICY

Mr. McGOVERN. Mr. President, the noted Columnist, Mr. Jack Anderson, has written a most revealing column which appears in the December 2 issue of the Washington Post. It indicates the way large oil companies have not only made huge campaign contributions to the reelection of Mr. Nixon, but have also drastically increased their profits as a consequence of the fuel shortage and public policy.

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:

THE FLOW OF PROFITS AND CONTRIBUTIONS

(By Jack Anderson)

Hidden in an ant bed of campaign statistics is evidence that the oil barons invested in politics last year even more heavily than their critics realize. We have now painstakingly traced at least $5 million from oil and gas sources into President Nixon's campaign.

This may help explain why the great oil crisis doesn't seem to have hurt the big oil companies. Only their customers are suffering.

The first signs of an oil shortage appeared as early as 1969. Yet most oil companies wanted to hold down imports in order to keep prices up. The President listened to the oilmen until the warnings became more urgent. Not until late 1971 did he finally increase import quotas slightly.

By the spring of 1972, a shortage of 350,000 barrels a day was predicted. Still the oil industry's fixer in the White House, Peter Flanigan, fought against more imports. This was the same time that the oil money was gushing into Nixon's campaign coffers. Re-

sult: our oil reserves weren't replenished with Arab oil when it was available.

The more critical the shortage became, the higher oil profits soared. It should be pointed out, of course, that the oil companies don't always present a united front but often make conflicting demands upon the government. Yet out of the turmoil has come government policies, which usually have made money for the oil and gas industry.

Most of these policies seem to have originated with the American Petroleum Institute and the National Petroleum Council. These two powerful bodies, which advise the Nixon administration on gas and oil, are loaded with Nixon contributors.

Our search of the records produced 450 high-level oil and gas men, who contributed from $100 to $1 million to the Nixon campaign. Of these, 87 were members of the Institute or the Council (or both).

Major oil company officials, ranging from Exxon to Signal, coughed up a staggering $4 million for Nixon. The other $2 million came from an assortment of oil and gas figures.

Some contributions were made before, some after, the new reporting requirement lifted the curtain a little on April 7, 1972. Some were never reported at all until they were flushed out by the Watergate investigation.

Consider the Exxon-Nixon connection, for example. The company's major stockholders, directors and officers laid out $442,000 for the President's re-election. Exxon's man in Greece, Tom Pappas, kicked in more than $100,000.

The sacrifice was quickly recouped. Exxon squeezed out a $1.6 billion profit for its first three quarters in 1973, an increase of 59 per cent over 1972.

Gulf Oil's contributors gave $1,169,400, if Gulf heir and banker Richard Scaife's $1 million is counted. The Gulf gift included an illegal corporate contribution of $100,000, which was laundered through a subsidiary in the Bahamas.

The President wasn't the only beneficiary of Gulf's largess. Another $15,000 and $10,000, respectively, were pumped into the abortive presidential campaigns of Rep. Wilbur Mills (D-Ark.) and Sen. Henry Jackson (D-Wash.).

Gulf got a better return than Exxon, with a 60 per cent increase over 1972 for the first three quarters of 1973.

Two other oil companies, Ashland and Phillips, pleaded guilty to slipping the Nixon campaign illegal contributions of $100,000 apiece. The Ashland payment, all in $100 bills, was routed through an oil-drilling subsidiary in Africa.

All told, we were able to find a record of $101,000 from Ashland executives and $116,000 from Phillips officials. The figures for a few other oil companies: Amerada Hess, $268,500; Standard of California, $90,000; Sun Oil, $145,000.

Occidental's Armand Hammer, who got U.S. encouragement in negotiating a multibillion deal with Russia for the development of natural gas, donated $48,000 to the Nixon campaign.

John Shaheen, a former Nixon law client, contributed $104,000. His company, Shaheen Natural Resources, got U.S. approval in building a huge refinery in Canada.

Tenneco, a giant gas transmission empire, has profited handsomely from recent actions by the Federal Power Commission and other government agencies. We have counted more than 50 big Nixon contributors among Tenneco bosses.

Belco Petroleum's chairman Arthur Belfer, gave $12,000 to the campaign; a few months later, he won a favorable FPC decision. The FPC, of course, is stacked with industry yesmen. Two of the four commissioners came out of the industry; the other two usually vote with the oil and gas interests.

The links between campaign contributions and government benefits, of course, aren't easy to pinpoint. But as the Washington gadfly, I. F. Stone, suggested wryly: "It would shake investor faith in American capitalism if it turned out that so many of our biggest corporations indulgently gave away all that quid without some quo."

Footnote: Spokesmen for the oil industry denied that political contributions had bought them favored government treatment. Oilmen were pressured for donations and feared government retaliation if they didn't cough up, said the spokesmen. They contended that oil profit increases in 1972 were among the lowest in the country. They caught up this year, which made the 1973 increases seem abnormally high. The spokesmen claimed that the industry had been ahead of the government in proclaiming an oil crisis and urging government action to prepare for it.

NEW HAMPSHIRE LEGAL ASSISTANCE

Mr. COTTON. Mr. President, Hon. Meldrim Thomson, Governor of New Hampshire, has some strong convictions regarding New Hampshire legal assistance, a branch of the Office of Legal Services which functions within the Office of Economic Opportunity.

Governor Thomson recently caused a study to be made to ascertain how effectively legal assistance functions in the State of New Hampshire. As a result, the Governor has issued a statement reviewing the whole situation and furnished me with a copy accompanied by a summary of the special conditions which he feels necessary should be agreed upon before he would accept any grant for the State of New Hampshire.

In view of the fact that the Senate is about to consider the proposed Legal Services Corporation Act, I believe that it is essential that the Governor's findings be available to every Member of this body.

I ask unanimous consent that the Governor's statement, together with the conditions suggested by him be printed in the RECORD.

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

NEW HAMPSHIRE LEGAL ASSISTANCE

(By Gov. Meldrim Thomson)

New Hampsire Legal Assistance, an expanding legal entity masquerading as a voice of the poor, is growing steadily as a cancer on the body politic and democratic process in the Granite State.

Leaders of the federally financed agency have directed it as a political force, focusing primarily on the state legislature and some state departments. The effort threatens the grass roots grasp of government at the local and state level the citizens of New Hampshire have stubbornly clung to throughout the decades through a large legislature and the traditional town meetings.

The agency seeks to wrest from the state's citizens control of state spending and plunge the state into a wallow of social programs and irresponsibility which would soon lead to bankruptcy.

The agency has attempted to permeate every facet of life in the Granite State by pressuring and harassing officials at every level with lawsuits and threats of lawsuits. It has attempted to rewrite the lawbooks, not only through court test but through blatant lobbying in the legislature and at the local level. At times, it has criticized legitimate appointments by public officials and demanded a change in the term of some state officials.

Its resources are equal to or larger in legal manpower than most, if not all, of the law firms in the state. It has risen to at least parity with the staff of the state attorney general's office—an office which not only must advise and represent all segments of state government but also must spend a large portion of its time prosecuting criminal cases, thus canceling the equality of manpower indicated by numbers alone.

New Hampshire Legal Assistance represents a callous thrusting aside of the state's right of self-determination for a small state with the weight of federal funds and power, concentrated in the hands of a dictatorial few.

ORGANIZATION

Legal Assistance operated on a budget of $437,500 for Fiscal Year 1973 with $350,000 of the money in federal funds from the national Office of Economic Opportunity. In addition, the agency has had some programs such as those for summer interns financed by federal funds in the past. Also, Legal Assistance obtained $80,000 to set up a splinter lobbying group last winter.

Its staff ranged from 18 to 20 attorneys, including Vista attorneys and students practicing under special rules issued by the state Supreme Court. In addition, the staff includes various support personnel and some Vista workers who organize on the community level. Salaries range from around $10,000 to the $20,000 area for the director—almost all of them above the average annual family income in New Hampshire.

Many of the attorneys have been recruited from outside New Hampshire, and at least one had a criminal conviction on his record in a neighboring state.

The agency's director is George Bruno, a New York native with a history of legal service work in New Jersey and a term in 1965 as an assistant in the Washington office of the late Sen. Robert F. Kennedy.

The board which presumably governs must have 51 percent representation from the legal field, according to Bruno. The bulk of these legal representatives are named by the Community Action Programs agencies in the state, some by the New Hampshire Bar and one by the American Civil Liberties Union. Other board members are selected as "Community representatives" by activist groups, some of which have been formed and aided by the legal assistance agency. The four "lay" members include another Community Action Program director, a representative of an education group (with a Dartmouth College designee) and another social services representative.

In an interview, Mr. Bruno made it clear the agency aims only for board members totally in sympathy with the work and direction of the agency. He could find no justification for even one representative taxpayer who was unaffiliated with the legal profession or related interest groups.

There are indications that the staff, headed by Mr. Bruno, dominates selection of the board members. It was learned through a source that he recently harassed one of the designating agencies for naming to the board an attorney whose philosophy might differ from his own.

CASES

A measure of the bent of the agency is its case breakdown for 1972 which showed the staff accepted 965 cases involving wel-

fare, social security, workmen's compensation, veterans administration, and unemployment insurance. This was only one segment of the continuing crusade against governments at all levels, and does not include areas such as housing, zoning, wage claims, school cases, commitment procedures and other categories which include hundreds of cases involving government, its agencies and its processes.

A review of several of the agency's reports to the board which includes the staff's spotlighted cases indicated that more than 50 percent were actions involving government agencies. Of 109 cases outlined in the reports, 62 fell into this category.

The prime targets in New Hampshire at the state level are the Division of Welfare and the Department of Employment Security, both agencies designed to battle poverty. Attacks on the latter agency have definite overtones of politics which will be explored in another section of this report.

As the agency practices its poverty role, it appears to be arbitrary. Reports on divorces it handles give no indication of a check on the financial status of the party other than the one the agency chooses to represent—although it would seem highly unlikely that the financial status of man and wife would always be so disproportionate.

Probably the most glaring example of injustice for the poor in the name of the poor was a suit brought by Legal Assistance on behalf of a family against an elderly couple in Loudon. The target of the suit and $50,000 writ of attachment was a retired couple living in a $13,000 home on $219 a month Social Security. The couple was left with no alternative but expensive legal fees for defense in an onerous prosecution of the very kind of person Legal Assistance pretends to represent.

The very fact that the suit also was fee-generating in nature put the agency in violation of its own policies and guidelines.

It appears the decision on many agency cases may be governed by the thought expressed in one of the reports to the board which carries the statement: "Lois Woocher awaits a case in which to try out a new tort theory on creditors harassment." Or another in the same report: "We should all be looking for a case to test the constitutionality of a bond requirement to appeal a judgment for possession." Another: "We should look for a suit challenging the distributional facilities and times of the counties and towns . . . We would work toward developing an alternative distributional source."

The same report includes more of the same:

"We should propose legislation and, if necessary, *develop* lawsuits to rectify the state's archaic registration and voting laws."

"One strongly *suspects* rehabilitation facilities in New Hampshire are deplorable. Mike Caccaro and Phil Houle have initiated an inquiry into this area which should be expanded."

"We should all move more vigorously to assure that local housing authorities a) utilize their leased housing reservations. b) implement the HUD model lease and grievance procedure."

The same report includes statements which urge apparently unsupported attacks on welfare, bankruptcy filing fees, evictions, laws governing such things as hitchhiking, tax policies, credit at New Hampshire banks which are described as "extremely conservative, and police practices."

The agency attitude and its resulting direction is best summed up in a statement in its financial guidelines: "Law reform is to be considered, if not the primary purpose of Legal Services, certainly a major purpose." Staff members are advised in the document not to allow the guidelines to become "an obstacle" to that purpose.

Thus, from Legal Assistance, New Hampshire has seen a parade of cases seeking to force what properly should be decisions of the people through elected representatives if they so choose:

A federal court suit to force the welfare system to broaden its program to include as disabled those suffering mental ailments.

A suit in federal court to force the Department of Employment Security to pay benefits until it holds a hearing on a notice of cutoff.

Several suits against the surplus food distribution system, including one which threatened to end surplus food distribution by officials in two towns.

Suits against local housing authorities.

Suits challenging the suspension of drivers licenses under preventive safety laws.

Suits against town welfare administrators.

Suits challenging the state child neglect laws and removal for abuse.

Suits against town tax systems.

Suits against laws governing voting hours and registration hours.

Suits against town and cities over zoning ordinances.

"ADVOCACY" AND POLITICS

Under the guise of a thing called "advocacy", which is merely a word used as a shield for high-pressure lobbying and threatening officials, New Hampshire Legal Assistance and its staff have launched a campaign to remold New Hampshire into the image they prefer.

Throughout the agency's literature and statements runs a thread of preconceived opinion and idea. The important thing is not to respond to the needs of the poor but to dictate to poor what they should have and to the governments what they should do. There is no evidence of research for action—merely action based on whim.

For example, we get this premise as a reason for promoting housing legislation: "Housing is a very basic need. Government in New Hampshire must deal with this need."

One report to the directors pontificates that poverty "is largely caused by institutional imperfections in our society which could be rectified by appropriate legal action."

With little evidence of acting on complaints or requests, the agency fights utility rate hikes before the Public Utility Commission, lobbies bills in the legislature, writes legislation and seeks a sponsor, browbeats administrators with queries which have overtones of legal action when administrative changes are announced and seeks to invade legally private meetings of governmental boards. The agency also sends to legislators lists of bills it approves.

A report to the agency directors boasts:

"House Bill 39, a new landlord-tenant law, has passed both the House and Senate, largely as a result of staff attorney Bob Johnson's (Laconia) strenuous lobbying efforts. Bob's hard work had impressive results. . . . I think this experience proves that institutional change is possible working through the legislature. It is our hope to make an even greater legislative effort in the next session. . . ."

And, at the next session, the agency, in another report to its directors, unveiled plans for a number of bills at the 1973 session. "Important," the report said, "We would appreciate it if at this meeting you could indicate whether you know any state legislators well enough to ask for their support on some of *our* bills."

The agency is not bashful about using the threat of suit to achieve its legislative goals. An article from the Concord Monitor concerning a tenants rights bill amended to provide statewide standards for food distribution programs reports: "New Hampshire Legal Assistance, which has brought court action against some towns over their determination of eligibility for such programs, has promised to drop the suits if the legislation passes."

The agency's attempt to interfere in conduct of business in a state department is best shown by the announcement by the state Welfare Division, a favorite agency target, that it would adopt the flat grant system which has been effective in cutting down errors and overpayments in other states. Mr. Bruno immediately issued a press release, contending the program might be good for administrators but "hard on poor families." The next day, in another press statement, he urged delay of implementation of the program. On November 28, he wrote Welfare Director Thomas Hooker, asking whether his office "has any plans to request an additional appropriation in the area of welfare during the forthcoming special session of the legislature." He suggested to Mr. Hooker a change in the program that would demand considerable increased funding.

On October 15, he wrote the legal counsel to Governor Meldrim Thomson, voicing his concern that an aide had said a food stamp program would not need legislation. The aide's statement came after numerous hours of conference with USDA officials over the guidelines Mr. Bruno attempted to summarize in a paragraph.

The agency is not content to utilize only its own staff to reach its legislative goals or its goals on the local level. It organizes and aids other groups from every level, even doing press releases for them.

The agency also solicits people to lobby with messages such as this: "If you don't have transportation to Concord, maybe we can find somebody to give you a ride. Give us a call."

It also seeks to expand its own influence by attempting to use other agencies and their employees such as those involved with "Operation Mainstream."

The agency also has been pushing New Hampshire prison authorities to establish a legal position with a paid attorney at the New Hampshire Prison.

But the most impressive clue to its determination to impose its will on the state is its creation and financing of a group called the "New Hampshire Advocacy Program" with an $80,000 federal grant. Speeches, press releases, "persuasion," lobbying and litigation are all listed as skills to be employed by that outfit. The program proposal by the Legal Assistance staff described it as one would an arm of the agency:

"The advocate would develop positions on significant issues. He would meet regularly with the other Advocates to coordinate progress and exchange substantial information. Equally important the Advocates, as a body, would tend to more closely tie the work of all the CAPS and NHLA into each other.

This past summer, NHLA and Child and Family Services, a private social agency with six offices throughout the state jointly hired three law students. These students reported directly to the Director of NHLA and the Family Advocate of Child and Family Services.

A number of significant accomplishments resulted from this experiment. First, through research, negotiation and then *threat*, we managed to "persuade" the State Division of Welfare to eliminate its illegal 90-day waiting period for AFDC recipients. This change benefited countless poor people throughout the state.

Secondly, the groundwork was laid for a challenge to the general assistance program throughout the state. We expect sharp

changes in the administration of general assistance in the months ahead as a result of this research and advocacy.

Recently through negotiation, NHLA secured a procedural change from the Division of Motor Vehicles that will help many poor people. Licenses of uninsured drivers now may not be suspended after an accident until a hearing has been held over the issue of fault. In departing from prior policy, a driver's license may not be suspended if a driver was not at fault."

The Advocacy group was an obvious outgrowth of something Legal Assistance describes in its reports as "Para-Professional Activity." For example, one report to the agency's directors includes these items:

"Joe Dubiansky, Dick Grimsrud and Anne Cotton have held the first of the incipient State Welfare Rights Organization. Much interest has been shown, and a second meeting has been scheduled."

Phil Houle and Dick Grimsrud have held the second meeting of the State Mobile Home Occupants Association, and a nonprofit corporation is being organized.

The direction of legal assistance has been criticized even by those officials who have been sympathetic to the problems of the poor and who administer programs to combat poverty. State Health and Welfare Commissioner Gerald J. Zeiller was quoted: "Its young, capable lawyers seem to want to practice constitutional law in broad class actions rather than their mandated function of protecting the indigent from abuses in terms of evictions, loan sharking and consumer frauds."

Interjection of the agency into politics has become blatant with Director Bruno jumping quickly into political situations without hesitation.

In July when Governor Thomson appointed veteran Republican Rep. Shirley Merrill, a former Lebanon Mayor, to the state Public Utilities Commission, Bruno immediately criticized him for exercising this legal responsibility of his office. He issued newspaper and radio statements. Bruno said the appointment was "Strictly political in nature." He charged there are no consumer advocates on the commission and that it is stacked with industry and commercial interests. He even went so far as to predict the commission would approve a nuclear power plant and an oil refinery in the state. The commission and its functions are purely matters of concern to the state legislature and the proposals before it are governed by state laws approved by the legislature.

Probably the most glaring of the agency's political activities is its crusade against the state Department of Employment Security and its commissioner Benjamin Adams.

Aside from countless suits, the agency has pressed continually for legislation to shake up the department and its administration.

The bills the agency pushed included a measure which would have changed the term of its commissioner—a term set by the legislature. Thus, Mr. Bruno openly joined a small group of politicians who for many years have tried to change the term of the commissioner and oust him for political reasons.

And, Mr. Bruno and his agency have spewed forth a continuing stream of public comments criticizing the commissioner and his agency.

An Associated Press story gives this lead paragraph: "New Hampshire Legal Assistance officials say they believe the state's unemployment compensation system is being run more for the benefit of employers than for those out of work."

Another Associated Press story on a special committee hearing in October of this year quotes Bruno as saying "The Department of Employment Security is the only department in state government that enjoys an exclusion from the Right-to-know law. Government should be open, responsible to the people, and shouldn't operate in secrecy." There was no acknowledgement of federal guidelines governing release of the information nor of the highly personal information on individuals contained in the department's files.

In another October newspaper story in the New Hampshire News Mr. Bruno criticized the department's appeals tribunal and the method of selecting its members—a system set up by state law. He is quoted: "There are a lot of retired people on the tribunals, and they like the extra money." He said they serve at the commissioner's pleasure and tend to vote his way.

A newspaper column in the Concord Monitor places Mr. Bruno at a meeting of the department's advisory commission, accusing the commission of operating wrongfully by reviewing legislation affecting the department. Mr. Bruno appeared chagrined that the commission's assessment of bills had great weight in the legislature.

Another newspaper article, this by the State News Service, finds Mr. Bruno supporting a "reform" package of legislation for the same department. He demanded "public" members on the unemployment advisory council and removal of the commissioner's power to nominate members of the council. "He also wants the commissioner's term to be limited to four years," the story reported.

The agency's political activity is not limited to the state level. An article in the Lebanon Valley News describes the presentation of petitions by a group of residents. The petitions were presented to the city manager by Guy E. Lescault, described as a Vista attorney. The clipping was included in a list of "accomplishments" by New Hampshire Legal Assistance.

New Hampshire Legal Assistance is political.

SPECIAL CONDITIONS APPLICABLE TO GRANTEE NO. 10036–74/01

1. The Governor shall appoint a nine-member advisory council to assist the corporation in fulfilling the terms of its grant of funds from the Treasury of the United States. Five of the appointees shall be members of the bar of New Hampshire and at least one shall be a member of the judiciary. The members shall be appointed for staggered terms of one, two and three years in groups of three. They shall be charged with notifying the corporation of any violation of the terms of its grant or any other applicable rules or guidelines. The council shall meet at least four (4) times a year. At all times the president of the New Hampshire Bar Association shall be a nonvoting, ex officio member of the council.

2. No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this Act, unless such attorney is admitted to practice in New Hampshire.

3. The corporation shall insure that its employees refrain from participation in, and refrain from encouragement of others to participate in any picketing, boycott, or strike, and shall at all times during the period of their employment refrain from participation in, and refrain from encouragement of others to participate in any picketing, boycott, or strike, and shall at all times during the period of their employment refrain from participation in, and refrain from encouragement of others to participate in: (A) rioting or civil disturbance; (B) any form of activity which is in violation of an outstanding injunction of any Federal, State, or local court; or (C) any illegal activity.

4. The corporation shall not participate in litigation on behalf of clients other than the corporation.

5. No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services.

6. The corporation shall not contribute or make available corporate funds or program personnel or equipment directly or indirectly to any political party, political association, or candidate for elective office.

7. The corporation shall not contribute or make available corporate funds or program personnel or equipment for use directly or indirectly in advocating or opposing any ballot measures, initiatives, referendums, or similar measures.

8. The corporation shall insure the maintenance of the highest quality of service and professional standards, adherence to the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients.

9. The corporation shall insure that no funds or personnel shall be used at any time, directly or indirectly, to undertake to influence any executive order or similar promulgation of any Federal, State, or local agency, or to undertake to influence the passage or defeat of legislation by the Congress of the United States, or by any State or local legislative bodies, except that the personnel may testify or make a statement when formally requested to do so by a governmental agency or by a legislative body or a committee thereof.

10. Full time staff attorneys of New Hampshire Legal Assistance, Inc., shall not engage in any outside practice of law.

11. Corporation personnel shall refrain from—

(A) any political activity as defined in the Federal Hatch Act and civil service rules; or

(B) any activity to provide voters or prospective votes with transportation to the polls or provide similar assistance in connection with election (other than legal representation in civil or administrative proceedings); or

(C) any voter registration activity (other than legal representation);

and insure that staff attorneys refrain at any time during the period for which compensation is received from the corporation from the activities described in clauses (B) and (C) and from taking an active part in partisan or nonpartisan political management or in partisan or nonpartisan political campaigns.

12. The corporation shall solicit the recommendations of the organized bar in the community being served before filling staff attorney positions and give preference in filling such positions to qualified persons who reside in the community to be served.

13. The corporation shall insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the corporation, refrain from the persistent incitement of litigation or any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee for a period of two years any cases which were first presented to them while engaged in such legal assistance activities.

14. The corporation and its funds and personnel shall not be used directly or indirectly to finance, to organize, to assist to organize or to encourage to organize, or plan for, the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity.

15. The corporation shall not provide legal assistance to any person under eighteen years

of age without the written request of one of such person's parents or guardians or any court of competent jurisdiction except in child abuse cases and custody proceedings.

16. The corporation shall not provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, to assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution.

17. Non-Federal funds received by the corporation shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds, but shall not be expended for any purpose prohibited by the special conditions of this grant.

18. Corporation attorneys may not seek out or solicit clients for the purpose of becoming parties to litigation in violation of Informal Opinion 1234 of the American Bar Association's Committee on Ethics and Professional Responsibility (dated July 19, 1972).

19. The corporation shall not initiate or file suit against any federal, state or local governmental agency or official for the purpose of changing any law, rule, guideline or regulation.

20. The corporation shall not advertise its locations or services other than is permitted private practitioners under applicable sections of the Code of Professional Responsibility of the American Bar Association.

ENVIRONMENTAL PROTECTION AGENCY SEVERS SUBSIDY TO INDUSTRY RESEARCH GROUP

Mr. MUSKIE. Mr. President, 2 months ago, during the confirmation hearings for Russell Train to be Administrator of the Environmental Protection Agency, I requested a report from Mr. Train on the appropriateness of EPA's continuing support for the Coordinating Research Council. The Coordinating Research Council, as I have indicated in previous statements, is a group dominated by representatives of the auto industry and the oil industry. It does research, particularly supported by EPA, which has been used as a basis for regulations affecting the auto industry and oil industry.

In the CONGRESSIONAL RECORD of September 6, 1973, beginning on page 28681, I placed documents in the RECORD providing background for my concern over the direction of EPA's research program.

I am happy to provide for the RECORD today three letters that announce the decision by Administrator Russell Train to sever the Agency's relationship with the Coordinating Research Council. I believe that is a very wise decision which will serve the public interest. Administrator Train points out in his letter that he has conducted a thorough review of the relationship that has existed between EPA and the Coordinating Research Council. Of particular interest here is Administrator Train's October 26 letter to Mr. M. K. McCloud, of the Coordinating Research Council. EPA now plans to take over and manage three projects that have previously been delegated to CRC.

I applaud the decision made by Administrator Train. It will insure that objective work is completed, and that the appearance of objectivity, also crucial to the development and an independent regulatory agency, will be maintained.

Because there may continue to be some doubt about the wisdom of severing ties with the Coordinating Research Council/Air Pollution Research Advisory Committe, I will also introduce for the record new and disappointing evidence of the inappropriateness of EPA's support for the CRC. I have a memorandum prepared at EPA discussing EPA's development of regulations for control of emissions from trucks and other heavy duty vehicles. That memorandum discusses the fact that these regulations are being developed, not by EPA as an independent regulator, but through a cooperative effort with the Coordinating Research Council representing the industry that is to be regulated.

EPA's decision to take such functions into its own research programs will do much to rectify an intolerable situation. The public, which also has a significant interest in the control of emissions from trucks and other heavy duty vehicles, has been excluded from the deliberations of the CRC.

The memorandum notes that in developing this regulation a representative of one of the Nation's engine manufacturers states that the CRC-dominated program to develop test procedures for vehicles was the most effective coup that the industry has pulled off on EPA. The memorandum goes on to state that this engine company representative took this position because the CRC action commits EPA to a long and complicated project which is bound to result in additional delays which could postpone instituting controls for heavy duty engines for many years. The memorandum then notes that—

> This could be a very sensitive point for EPA in light of recent criticisms that have been raised about the EPA/industry joint CRC/APRAC projects.

Compromise of EPA's regulatory activities by the auto industry and the oil industry—through the CRC—are expressed clearly here in EPA's own memorandums. This reveals quite clearly why it was necessary for EPA to sever its funding relationship with CRC. If properly implemented, Administrator Train's decision should help restore some confidence about the independence of EPA's regulatory activities. I ask unanimous consent that the three letters mentioned previously, plus the two enclosures to the letter to Mr. McCloud, the EPA memorandum dated June 25, 1973, and the Ford Motor Co. letter to Mr. Stork, be printed in the RECORD.

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

U.S. ENVIRONMENTAL PROTECTION AGENCY,
October 26, 1973.

HON. EDMUND S. MUSKIE,
Chairman, Subcommittee on Air and Water Pollution, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearings on my nomination I promised to review this Agency's relationship with the Coordinating Research Council and to provide you a further report.

A thorough review has been undertaken and it is my decision that the Agency terminate its formal relationship with the Council and we will not enter any new jointly-funded projects with the Council. Although we will continue to maintain normal professional communications with the Council, we will withdraw from formal participation in the CRC planning process. There are a number of projects for which funds are currently obligated but not yet fully expended; on these projects EPA will continue its participation until completion. In addition, there are very few joint projects which are especially important to EPA; we will propose to the Council that EPA completely take over, fund and manage these projects by our own research and development program elements.

This represents the thrust of my decision and it has been informally communicated to the GRC staff. My own staff is now preparing a letter to the Council spelling out the details and I will of course supply you with a copy of that letter after it has been delivered to the Council.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

NOVEMBER 16, 1973.

HON. EDMUND S. MUSKIE,
Chairman, Subcommittee on Air and Water Pollution, Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In his recent letter, Administrator Train promised to supply you with a copy of his letter to the Coordinating Research Council.

I am pleased to enclose a copy of Mr. Train's October 26 letter to Mr. M. K. McLeod.

Sincerely yours,

ROBERT G. RYAN,
Acting Director, Office of Legislation.

ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., October 26, 1973.

MR. M. K. MCLEOD,
Coordinating Research Council, New York, N.Y.

DEAR MR. MCLEOD: This will formally advise you of our intention to withdraw from the CRC/APRAC Program. This decision has been reached with considerable personal regret by myself and my colleagues within EPA.

As you know, EPA's role in APRAC, particularly our joint funding of projects with industry, has received rather intensive criticism in recent months. We have considered this situation very carefully, both as regards technical and non-technical issues. I am satisfied from my review of the program that EPA's past participation in CRC/APRAC has been entirely constructive from every standpoint, and that the data generated under CRC/APRAC auspices have been free from bias. Nevertheless, not only the fact of objectivity but also the appearance of objectivity must be considered when it comes to evaluating continued EPA participation in this activity. The fact that in the minds of at least some people deeply concerned with environmental matters there now is a serious question as to the objectivity and freedom of bias of CRC/APRAC research projects makes it necessary to assuage those doubts.

Therefore, our continuing participation in APRAC itself and in all but three of the jointly funded projects under APRAC will be discontinued, on an orderly basis, on the date when each current project reaches a stage where contracts based on presently committed EPA funds are complete, but in no case later than August 31, 1974.

Three projects of particular relevance to program priorities of EPA's Office of Research and Development will, if acceptable to CRC/APRAC, be taken over to be funded and managed solely by EPA until their completion. The enclosures to this letter set

forth our views on appropriate groundrules for this systematic disinvolvement.

I must add that this in no way suggests an Agency position precluding participation of EPA technical staff on Committees and other cooperative industry/government activities to the extent that these are comparable with the interest and objectives of EPA.

It is my hope that informal cooperation will continue between APRAC and members of the EPA technical staff, and that the information deriving from both CRC/APRAC and EPA research in related areas be shared as expeditiously as possible through periodic meetings for exchange of information as well as through exchange of reports covering such investigations.

Sincerely yours,

RUSSELL E. TRAIN,
Administrator.

ENCLOSURE 1

GENERAL GROUND RULES FOR CONCLUDING EPA/APRAC RESPONSIBILITIES

(1) EPA will not participate in the management or funding of any new projects initiated by CRC–APRAC.

(2) EPA proposes to assume sole responsibility for completing projects CAPA–8, CAPA–9, and CAPA–11, with copies of all contract reports to be forwarded to CRC–APRAC. (See Enclosure 2)

(3) EPA will end its participation in all other CAPE, CAPM, and CAPA projects at the time of approval of the last contract report which covers work currently funded by EPA. In all of these projects, EPA participation will terminate by no later than August 31, 1974.

ENCLOSURE 2

CURRENT APRAC PROJECTS FOR WHICH EPA PROPOSES TO ASSUME FULL RESPONSIBILITY

Project

CAPA–8, Determination of Formation Mechanics and Composition of Photochemical Aerosols (Physical Study).

CAPA–9, Chemistry of Nitrogen Compounds in Air.

CAPM–11, Effects of Low Levels of Oxidants Upon Humans.

Recommendation

Increase EPA funding to 86 K for FY 1974—assume complete responsibility for project direction.

As above, but EPA funding increasing to 93 K.

As above, but EPA funding increased to 105 K.

U.S. ENVIRONMENTAL PROTECTION AGENCY

PURPOSE

The purpose of this memorandum is to summarize some information on industry programs and attitudes as they relate to EPA's and California's program to control emissions from heavy duty engines.

BACKGROUND

The 1974 federal standards for the control of gaseous emissions from heavy duty engines will require no reductions for diesels and as a practical matter will have little effect on reducing emissions from gasoline engines over pre-controlled levels.

EPA has programmed a long-term program in conjunction with CRC–APRAC to develop data which will be used to develop a new test procedure. It is anticipated that this test procedure would be used to set more stringent standards sometime around 1979 to 1980.

There is currently a reassessment of the heavy duty situation going on within MSAPC to determine if additional action should be taken based on present type test procedures in advance of the standards anticipated in 1979–1980.

California has adopted standards for heavy duty engines in 1975 which represent a 38% reduction for CO and a 70% reduction for HC and NOx over levels promulgated by the Federal Government to take effect in 1974.

DISCUSSION

In informal conversations with employees from Cummins Engine and Detroit Diesel (G.M.) it was indicated that both companies would be able to produce diesel engines that meet the California standard in 1975. (Cummins and Detroit Diesel sell between 80% to 90% of the diesel engines used in over-the-road applications). It was indicated that diesel engines built to meet the California standard will result in an increase in the initial cost of those engines (probably a larger percentage increase in initial costs than will be required of the gasoline engine). It was specifically stated by Cummins, however, that their new low emission engines will result in substantial *improvements* in fuel economy. Control techniques for diesels to meet the California levels could include new injectors, turbocharging, modification of aftercooling, raising the compression ratio, retarding timing, variable timing, combustion chamber changes, and larger camshafts.

In informal contacts with selected heavy duty gasoline manufacturers (General Motors and International Harvester) it was indicated that it is feasible to produce engines that meet the California levels in 1975. Engines built to meet the California standards will result in higher initial costs but probably not as large percentage-wise as those that are expected for diesel engines. It is anticipated, however, that there will be a fuel penalty associated with heavy duty gasoline engine emission control. Control techniques for gasoline engines could include EGR, air pumps and carburetor modifications. Some manufacturers have catalyst backup programs with an eye to substituting catalyst control for EGR to avoid adversely affecting fuel economy.

Cummins indicated that they anticipated a larger increase percentagewise in the price of diesel fuel versus the price of gasoline.

In a very candid discussion on June 8, 1973 at the Ann Arbor lab between representatives of Cummins Engine and EPA technical staff members, several points were made by the Cummins people which provide some perspective on the industry and the California and Federal programs to control heavy duty emissions. Although the Cummins representative would probably not want to be quoted, he indicated that it was his opinion that the CRC–APRAC (Cape 21) program to develop new test procedures for heavy duty engines/vehicles was the most "effective coup that the industry has pulled off on EPA" as it commits EPA to a long and complicated project which is bound to result in additional delays which could postpone instituting controls for heavy duty engines for many years. This could be a very sensitive point for EPA in the light of recent criticisms that have been raised about the EPA/industry joint CRC/APRAC projects.

The Cummins people indicated that their primary purpose in requesting the meeting with EPA was to learn if requirements similar to these in California were being considered for adoption nationwide. The emissions people from Cummins indicated that the amount of effort devoted to emission control within their company was in the process of being cut back due to speculation that EPA has no intention of instituting nationwide standards similar to California and that any additional controls would not be instituted by EPA until after the CRC/APRAC work was completed. The Cummins people indicated that the big rumor in the industry was that Detroit Diesel had "thrown in the towel" on emissions work and did not anticipate nationwide standards.

The situation is complicated by the question of whether the California standards will be enforced. The California requirement for heavy duty applies to engines and/or vehicles "first sold *and* registered in California". As with the 1975 interim standards in the light duty situation, this could provide an incentive to import vehicles and engines into the state that were initially sold elsewhere. A check with California on this enforcement problem indicated that in the heavy duty situation they would probably attempt to get additional authority to prevent importation and if this failed it is conceivable that the requirement could be postponed with a request that it be made nationwide. The local California HD engine dealers would, of course, stand to lose if engines were imported from out of state and can be expected to raise a protest.

CONCLUSION

That the MSAPC effort to develop recommendations on what action EPA should take with respect to heavy duty be given a much *higher priority*. Considerable confusion presently exists in the industry which is resulting in a *slowdown* in work related to emission control. Definitive guidance and/or rules need to be provided by EPA to the industry as soon as possible.

FORD MOTOR CO.,
Dearborn, Mich., July 27, 1973.

Mr. L. O. STORK,
Deputy Assistant Administrator, Mobile Source Pollution Control, Environmental Protection Agency, Washington, D.C.

DEAR MR. STORK: In the EPA Hearing on Remand in respect to 1975 model emission standards the Administrator asked us specifically about our experience in respect to catalyst usage on light trucks. We stated we had essentially no experience with catalysts on trucks in customer usage and urged that standards be adopted which would not require these control systems on that type of vehicle. The public record indicates similar testimony was received from other automotive manufacturers. There was evidence that driving patterns of trucks in the hands of the customer was different than passenger cars. Based on the record we anticipated that EPA would adopt light truck standards that would not require catalysts.

Recently we have heard considerable public speculation that the proposed light duty truck standards for 1975 will be 2.0 gpm HC, 20 gpm CO and 3.1 gpm NOx. On that basis we would plan that between 8.3 to 25.1% of our trucks may require catalysts. Generally speaking, these would be on six cylinder engines or small eight cylinder engines.

We do not yet know the disposition of California's waiver request for 1975 light trucks. Accordingly, potential additional catalyst usage in that state is not included in the above projection.

For 1975 we are currently forced to assume the use of catalysts on all California heavy truck engines in order to meet the standards for which California received a waiver several years ago. There are obvious problems in respect to filler necks on heavy duty trucks in California and the test fuels to be utilized for certification of 1975 truck engines. We have mentioned some of these potential difficulties to the Executive Officer of the California Air Resources Board.

To sum up the problem we want to point out that we have had practically no experience with catalyst usage on trucks. What experience we have had has been extremely negative. We do not believe that it is technologically feasible to utilize catalyst control systems on 1975 model trucks and yet we are faced with potential requirements for a national standard that could result in a considerable portion of our light trucks using them. We also know that California has a pending waiver which would require catalysts on light trucks in 1975 and an existing waiver which would require catalysts on heavy truck engines in 1975.

To our mind this diversion of effort will seriously jeopardize our attempts to meet the stringent 1975 passenger car standards in California and in the 49 states.

We would, therefore, urge reconsideration of proposed light duty truck standards; denial of the pending California waiver request; and reconsideration of the 1975 heavy duty gasoline truck engine waiver for California.

Sincerely yours,

D. A. JENSEN.

WATER POLLUTION PERMIT PROGRAM

Mr. MUSKIE. Mr. President, another question raised at the confirmation hearings of Mr Train dealt with the adequacy of manpower in the Enviornmental Protection Agency to process the permits for all dischargers subject to the National Pollutant Discharge Elimination System. In response to those questions, I recently received a letter from Administrator Train discussing the adequacy of staffing the permit program at EPA.

The Administrator's response on this issue indicates there will be a clear need for the Subcommittee on Air and Water Pollution of the Senate Public Works Committee to monitor continually EPA's activities and its relationship with State agencies in granting permits. Mr. Train's optimism about the adequacy of EPA manpower to handle this job is based in part on an assumption that a number of sources may be allowed to be ignored in the permit granting process. This is a very questionable assumption. Moreover, the lack of adequate numbers of State personnel to administer this permit program is acknowledged by the Administrator, though his letter indicates an expectation regarding State assumption of the program:

> We expect about twenty [States] to have the authority by the end of this fiscal year.

Obviously, continual surveillance of the problems associated with the permit program will be needed. I believe that the public record ought to contain Administrator Train's letter on this subject, and I ask unanimous consent that it be printed in the RECORD.

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

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., November 26, 1973.

Hon. EDMUND S. MUSKIE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: During my confirmation hearings, you asked me how many people it would take to process, by December 31, 1974, permits for all dischargers subject to the National Pollutant Discharge Elimination System. (After this date, dischargers whose permit applications have not been administratively completed lose immunity from citizen suit.) At the time, it seemed that a rather simple arithmetic calculation could determine this number, but I am now convinced that it is not quite that simple. I did believe, as you appeared to believe, that additional people would be necessary to meet this goal; however, I no longer have that view.

We have just completed an intensive internal analysis of the Permit Program, looking at the more successful aspects as well as those that appear to be causing delays. The conclusion reached is that, although it is still too early to be as precise as you and we would like, the Environmental Protection Agency has the present capability essentially to reach the goal that Congress has established for December 1974. I say we can "essentially" meet this goal because we feel we will, by this date, have been able to issue permits to all significant industrial and municipal dischargers—thereby encompassing the vast majority of all effluent discharged—and have permits either issued to or drafted for a very substantial portion of minor dischargers. I also anticipate that we will make very substantial headway in the area of agricultural discharges, particularly if our present expectation of the number of sources requiring permits is correct. If the lawsuits challenging our right to identify minor dischargers not needing permits are sustained, however, issuance of permits to minor dischargers could be somewhat more delayed.

We are now seeing the "pay-off" from the experience gained by operating the national Permit Program for three years, and by actually issuing over 1,000 permits, mainly within the past year. We feel that we have basically passed the most difficult stage of the Program by setting up the processing machinery. Many of the initial problems have been worked out; others have been identified and solutions are forthcoming.

The Regions are gaining momentum and are heavily concentrating on the major industrial dischargers. The availability of the Effluent Guidelines and load allocation data for the water quality limited streams will significantly expedite processing. Precedents set by the adjudicatory hearings now underway should also remove many of the potential future hurdles to succesful permitting of dischargers.

While only five States have been granted the authority to issue NPDES permits, we expect about 20 to have the authority by the end of this fiscal year. In many other States, agreements have been worked out between the State and the Regional Office on joint preparation and issuance of NPDES permits. This has been encouraged, particularly in those States which, for one reason or another, are unable to receive authority to carry out the Program. Involving the States as much as possible before they receive permit authority puts maximum staff resources behind the Program, minimizes duplication, and acquaints the States with the Program's procedures and requirements, which are often different from their own.

While it might be assumed that once the Program is turned over to the States the Federal staffing level would be reduced, we do not foresee this happening right away. Even after the States receive the authority, it may be necessary to continue working together on permit issuance in order to process the applications of the significant dischargers by December 31, 1974. I say this because present staffing shortages in most States will be a hindrance to efficient processing. Even in the States that do assume the major role, EPA staff can still be used to draft permits in selected areas, although the States will actually issue the permits.

In summary, my previous opinion was based on the theoretical assumption that more EPA staff could get the job done somewhat faster, but I do not now believe this is the case. There are 521 positions officially assigned to the Permit Program, and there are hundreds of positions in other elements of the Agency which are also supporting the issuance of permits. We may already be close to the point of diminishing returns as far as the number of people processing permits relates to actual permit output. The problems of startup were such that additional staff at the onset would not have speeded up the process or brought us any closer to the goal we all seek.

We are now gaining the understanding and cooperation of most States, and we feel that their participation will do more toward meeting the goal than will adding (and having to train) Federal staff. We also believe that increasing the Federal staffing at this time could cause some States to decide to stop their participation and cooperation entirely. This is not desirable.

I sense that the Permit Program, with all its complicating factors, is an activity that is pulling the States and EPA into a closer partnership, one that utilizes all available manpower in the most productive way. That is, in my opinion, a healthy relationship.

Sincerely yours,

RUSSELL E. TRAIN.

DINNER CHAIRMAN TERRY KASTOFF ANNOUNCES LOYAL LEAGUE, HONORS MORTIMER JANIS

Mr. BUCKLEY. Mr. President, on December 15 one of our Nation's finest charitable organizations, the Loyal League Philanthropies, Inc., will hold its annual dinner dance at the Waldorf Astoria in New York City. This 50-year-old event is held to raise funds to support the many worthwhile philanthropic causes to which the league and its distinguished membership has turned its attention year after year. This year the dinner will salute New York City as the fashion capital of the world, out of respect to the many presidents of major New York retail and wholesale fashion organizations who have contributed so much to the growth of their good works.

Guest of honor this year will be Mortimer L. Janis, president of Franklin Simon. A native New Yorker, Mr. Janis is a member of the executive committee of the Metropolitan New York Retail Merchants Association and the Board of Directors of the Fashion Institute of Technology. He has also been active on behalf of the Boy Scouts of America, the Jewish Hospital of Denver, and other charitable activities.

I am delighted to join with all of the friends and members of Loyal League of Cities in honoring Mr. Mortimer Janis for his achievements as a businessman and philanthropist.

Mr. President, the cochairman of the Loyal League dinner has issued a statement outlining the many charitable activities of this organization and I ask unanimous consent that the statement be printed in the RECORD.

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

THE LOYAL LEAGUE

Each year in December the Loyal League Philanthropies, Inc., holds its Annual Dinner at the Waldorf Astoria. This is the only fund raising activity of this organization. The dinner is held in honor of a well known philanthropist, especially one who is interested in and has contributed time, effort and money to help in some measure to improve the condition of the underprivileged.

What do we do with the proceeds of this affair—the only expenses of which are the cost of the dinner and the incidental expenses related thereto? We have no paid solicitors. This year we have made, among others, the following donations for scholarships to young men who otherwise would have been unable to go to college.

Among the colleges to whom this money was donated were:

Albert Einstein College of Medicine, University of Haifa, City College of New York,

Columbia University, and Columbia Law School.

Yeshiva University, New York University, The Johns Hopkins School of Medicine, New York Medical College, and New York University Law School.

Brandeis University, Yale Law School, Yale Medical School, and Fordham University.

Rutgers University, Mass. Institute of Technology, and Harvard University Graduate School of Business Administration.

We also donate ten scholarships to young men on the high school level to Bronx High School of Science and Midwood High School of Brooklyn, to the Green Chimneys School and the Stephen Gaynor School.

We have supported and contributed to The Optometric Center of New York, Anti-Defamation League of the B'nai B'rith, Pearl Socoloff League for Retarded Children and the American Jewish Committee.

We helped to build and continue to support Camp Loyaltown in Hunter, New York, which affords 606 poor children of the metropolitan area the privilege of spending 9 weeks in the country in groups of 200 every 3 weeks. The Ed Sullivan Recreational Building, the Lou Pitofsky Library, the Rosalie Fox Arts and Crafts Wing, the Bernard Weiss Athletic Field Compound are but part of our continuing support of this worthy project.

We are also very happy about our Ruth Hurwitz Memorial Library at Columbia University and the Jay E. Lenley Memorial Library Room at New York University. Truly great tributes.

We have supported and allocated a good deal of money in the field of medical research, specifically the great work of Dr. Conrad Riley at the Babies Hospital of the Presbyterian Hospital which has resulted in the control of Nephrosis and Nephritis. Also that of Dr. Sidney Cohlan, formerly of Beth Israel Hospital with respect to Vitamin A and Congenital Abnormalities. Also the splendid work of Dr. Harold W. Dargeon of Memorial Center on the effect of radiation in the treatment of cancer in children.

In former years, we have constructed a building in the Dr. Israel Goldstein Youth Village in Israel for the teaching of carpentry trade.

Loyal League has also provided the Brookdale Medical Center with the most modern scientific equipment to take care of children suffering from serious heart or lung ailments, gratis, in the Jewel Weiss Cardio-Pulmonary Surgical Suite.

In recognition of our many, many contributions to the Beth Israel Hospital in New York City, the Chas. H. Silver Clinic has designated one of its floors, which takes care of out-patients—"The Loyal League Pediatric Floor".

All this has been made possible by our generous support and contribution and in behalf of myself and the trustees I express to you our thanks and gratitude.

RUNAWAY PRICES—BACKDOOR RATIONING

Mr. EAGLETON. Mr. President, even while the Congress and the public debate the relative merits of fuel rationing versus some form of Federal tax, the administration appears to have quietly signaled the Cost of Living Council to implement its plan for rationing and conserving fuels through higher consumer prices.

That is the only conclusion I can draw from the acquiescence of the Council in repeated fuel price increases that appear to have no justification other than that the market in this period of shortage will bear it.

In the past 6 months alone, the price of gasoline and motor oil has increased by 10.5 percent and the price of fuel oil and coal by 22.7 percent. Those figures do not include the latest round of increases announced last weekend which ranged from 2 to 3.2 cents per gallon of gasoline and up to 4.5 cents per gallon of heating oil. Even larger increases have been noted in the price of propane.

Some increase in the price of fuel was predictable in the wake of the Arab oil boycott and the general increase in the cost of imported crude oil. But I can find no basis whatever for the kind of price increases now being freely passed through the Cost of Living Council to the American public.

More and more, the people who have to pay these prices are asking how is it that the oil companies can be so hard up and still manage to register the greatest profits in their history.

During the first 9 months of this year when consumer prices for oil products of various kinds were increasing by 15 and 20 percent oil industry profits rose by an average of 47 percent over what they were a year ago—63 percent in the last 3 months. That was the industry average. Many individual companies did much better than that, for example, Occidental Petroleum profits were up by 417 percent, Clark Oil by 350 percent, Amerada Hess 88 percent, Standard Oil of Ohio 55 percent.

The administration owes the American people an explanation of these awkward and embarrassing facts. Is the oil industry under price controls or is it not? For starters, I believe it should order an immediate rollback of the latest round of price increases followed by a top to bottom investigation of possible profit gouging by the oil industry.

That is what should be done but, frankly, I am not optimistic that it will be done. It is apparent that what is happening to oil industry prices accords too well with the Marie Antoinette economic theories of some of this administration's leading economic planners.

Their view which seems to prevail over alternative approaches for the time being is that sharply increased consumer prices by themselves will work to discourage fuel consumption, serve as a means for deciding who gets what of the available supply and, in the bargain, give the oil companies a profit incentive for developing new sources of fuel.

That is a very neat theory, but fatally flawed on at least two counts.

First, and most obvious, rationing through higher prices would work serious hardship on lower income groups. If ability to pay becomes the test for determining who can operate their cars and who can heat their homes, much of America will have a long cold winter indeed.

The second problem with this approach is that it is impossible to isolate the price of fuel from all other prices in the economy. Fuel is the very lifeblood of that economy. An increase in fuel costs broadcasts itself throughout the economy and is reflected in increased costs of everything we buy from a pound of butter to aspirin tablets. Rationing through higher prices thus boils down to prescription of general inflation as the answer to our fuel shortages.

Many of these same problems are inherent in proposals to apply a stiff Federal tax on fuel, but that approach has the partial merit at least of keeping the increased costs in the Public Treasury where the money can be used to finance new energy research and development programs.

There are steps we can and must take now to minimize the impact of the crisis in the short run and bring us through the worst part. But what has been offered so far by the administration falls far short of the kind of energetic action and leadership we must have.

In my view we must face the unpleasant reality and take the hardest steps now by establishing a system for rationing and allocating fuels of all kinds. It is not a pleasant prospect and clearly not without problems of its own. But it appears to be an inescapable decision that will become only harder for its postponement.

To continue to stumble along with halfway measures or to impose on the American people a system to let higher prices decide who gets fuel could plunge this country into one of the most serious crises it has ever faced, one that no amount of belated leadership will do much to ease.

THE DOLE AMENDMENT TO DAYLIGHT SAVING TIME BILL

Mr. DOMENICI. Mr. President, yesterday I cosponsored legislation that passed the Senate which will prevent unreasonable discriminatory fuel cutoffs against any user or class of users of refined petroleum products. This legislation is identical to the Goldwater-Rooney bill in the House. I supported this measure because I am deeply concerned that ill-advised actions in the name of fuel conservation could destroy or cripple entire segments of our economy.

The focus of my concern at the moment is the proposed fuel reductions for general aviation. I feel that the initial fuel reductions proposed by the executive branch for general aviation—an average of 42.5 percent—were ill advised in that it would have dealt a severe blow to civil aviation, perhaps a death blow.

So, I was pleased when the President announced a modification of the proposed reductions so that general aviation's overall reduction will be only 25 percent as compared to the original 42.5 percent. This may still be too much of a reduction for States like New Mexico which depend so heavily on light aircraft for business and commerce. As I pointed out on the Senate floor yesterday, New Mexico has 5,500 general aviation type airplanes of which at least half are used for business purposes. I further emphasized that it is extremely important for Federal agencies to take unique circumstances, such as this direct connection between general aviation and business in New Mexico, into account when formulating national policies for dealing with

national problems. It is a difficult thing to do, I know, but it must be done.

The legislation approved yesterday would require that kind of consideration of local conditions before a Federal agency with all good intentions, unwittingly singles out a particular segment of the economy or part of the country to bear a disastrous burden in the overall program to conserve energy.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, for the past 6 years I have daily urged the Senate to take action on the genocide and other human rights conventions. The Genocide Convention has been widely supported by this and previous administrations, many of the most prominent members of the bar, and statesmen throughout the world.

In March 1971, hearings were completed by a special subcommittee of the Committee on Foreign Relations on the Genocide Convention. As was the case during earlier hearings in 1950 and 1970, the testimony was overwhelmingly in support of the Genocide Convention. In March 1973, the Genocide Convention was once again favorably reported to the Senate. The wealth of testimony in support of this Convention attests to the intense interest in the treaty and widespread support for human rights. Indeed, resistance to ratification of this treaty seems to have abated in the quarter century since the treaty was first proposed.

I believe that this lessening of resistance can be attributed to the broader and deeper understanding of the convention's provisions. It is most helpful that those provisions which initially raised so many questions and doubts have now been debated and explained by a great many eminent members and scholars of the bar, officials of the administration and representatives of the United Nations.

I urge the Senate to ratify this outstanding human rights document in the 93d Congress.

THE JUDGMENT PRONOUNCED AT KARLSRUHE CONCERNING THE CONSTITUTIONALITY OF THE BASIC TREATY

Mr. BUCKLEY. Mr. President, the recent decision by the West German Supreme Court concerning the basic treaty between East and West Germany has great significance for the United States because our policy of détente has been very much tied to the Ostpolitik initiatives of West German Chancellor Brandt. The interpretation of the treaty by the supreme court as outlined by foreign policy specialist Rupert Dirnecker should occasion a rethinking of détente by the architects of our own policies, and toward that end, I am going to ask unanimous consent that the entire statement be placed in the RECORD.

I might add that I am particularly pleased to see Dr. Dirnecker's useful work on this subject. He served with great distinction in West German Embassies in both Moscow and Washington and as a foreign policy expert for the CDU/CSU opposition parties, his balanced viewpoint, seasoned by his practical diplomatic experience, sheds a great deal of light on this most complex issue.

Mr. President, I ask unanimous consent that Dr. Dirnecker's essay be printed in the RECORD.

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

THE JUDGEMENT PRONOUNCED AT KARLSRUHE CONCERNING THE CONSTITUTIONALITY OF THE BASIC TREATY

(By Rupert Dirnecker)

I

The 31st of July 1973 will go down in the constitutional history of Germany as a landmark.

The judgement of the Federal Constitutional Court pronounced on that date in the proceedings regarding the conformity with the Constitution (Basic Law) initiated by the Bavarian Administration on the constitutionality of the Basic Treaty confirms the continuity of the constitutional reality as the legislator of the Basic Law had visualized it, and as it had served as a basis for the joint political actions with respect to Germany of all democratic parties in the Federal Republic of Germany from 1949 to 1969, as well as for the jurisdiction of the Federal Constitutional Court.

At the same time, however, the Federal Constitutional Court has also availed itself of the opportunity created by the proceedings initiated by Bavaria—almost two decades after the directive judgements on the constitutional situation of Germany (Saar judgement; judgement prohibiting the Communisty Party of Germany in 1955/56) at a turning-point in German history—to redefine the legal bases for the existence of a German nation, and to incorporate the developments which have occurred in the meantime—to include the recognition, under constitutional law, of the German Democratic Republic carried out by the Social-Democratic/Free-Democratic Government in 1969 (according to Governmental Declaration dated 28 October 1969: two nations in Germany which do not constitute foreign countries for each other, and the relationship of which is of a special nature)—into this constitutional framework.

In addition, the Court has established binding restrictions and guidelines with respect to future political actions concerning Germany.

II

In its formal statements regarding the interpretation of the Treaty and the procedure regarding standards control, the Federal Constitutional Court has reminded all bodies of the Federal Republic of Germany again of the principles of constitutional division and power—to include, above all, the status and authority of the constitutional jurisdiction—after certain trends had spread within the Government demanding the adaptation of the law to politics, the Basic Law to the Basic Treaty, and the constitutional jurisdiction to the plebiscitic will of the people.

In detail:

II.1. The Federal Constitutional Court has not simply declared the Basic Treaty to be consistent with the Basic Law, but only on condition that it is interpreted "according to the interpretation following from the opinion given in the judgement". This interpretation has normative effect (Para. 31, Subpar. 1 of the Federal Constitutional Court Law). The Court expressly points out, in addition to the tenor of the judgement, on page 45 of the opinion:

"All statements of the opinion given in the judgement, and even those which do not exclusively refer to the contents of the Treaty itself, are required, i.e. within the meaning of the jurisdiction exercised by the Federal Constitutional Court, they are part of the reasons supporting the decision."

In accordance with the above, the Basic Treaty cannot be understood by itself, but rather only in the interpretation of the judgement rendered at Karlsruhe. Every German constitutional body must advocate this interpretation not only internally, but also externally. No other power, and especially not the immediate partner to the Treaty, the German Democratic Republic, can object to this interpretation on the grounds that it is contrary to the Treaty. For the German Democratic Republic has ratified this Treaty while being fully aware of the fact that our side will only be able to comply with the Treaty on the basis of an interpretation consistent with the Basic Law which will be established by the Federal Constitutional Court and will be binding. (cf. Pages 46/47 of the opinion given in the judgement)

II. 2. As far as the manner is concerned in which this legally binding interpretation is to be achieved, the Federal Constitutional Court has stated clearly:

The proceedings regarding the constitutionality shall be governed by the Basic Law the binding interpretation of which is the responsibility of the Federal Constitutional Court;

A tense relationship between political reality and constitutional principles cannot be eliminated by believing that the constitutional regulations in force can be changed by a Treaty. This neither created substantive constitutional law nor could it be used for the purpose of interpreting the Basic Law;

Rather, the opposite would apply: a Treaty which was inconsistent with the constitutional law in force, could be brought into line, with respect to the Constitution, with the Basic Law only by an appropriate constitutional amendment (Page 15 of the opinion given in the judgement).

By issuing these principles, the Federal Constitutional Court flatly refused the request made by the representative of the Federal Republic of Germany in the oral proceedings on 19 June 1973 (MD. Bahlmann, Federal Ministry of Justice) to adapt the Basic Law to the Basic Treaty and the politics supporting it.

He had been of the opinion that he would have to urge the Federal Constitutional Court to adapt the Basic Law to the new political facts concerning the political actions regarding Germany created as a result of the political course followed by the Government and ostensibly confirmed by the popular verdict in the Federal Diet elections.

II. 3. Moreover, the Federal Constitutional Court also reproached the Federal Republic of Germany in its formal statements. With reference to the pressure regarding the time schedule which the Federal Republic of Germany exerted upon the Court as a result of its announcement that the Treaty would be put into force—which was said to be unavoidable—even before the judgment would be pronounced which was scheduled for 31 July 1973, the judges point out:

"It follows from these deliberations that it is of decisive importance that a decision concerning the proceedings regarding the constitutionality which is in reference to a Treaty must be rendered before it is put into force. All constitutional bodies must . . . take this into account. This means, on the one hand, that the Federal Constitutional Court concludes the constitutional review as soon as possible. It means, on the other hand, that the remaining constitutional bodies include the responsibility of the Federal Constitutional Court to carry out this review in their considerations regarding the time-schedule for the proceedings which will bring about the ratification of the Treaty, and to refrain from doing

anything which would render it difficult, or impossible, for the Federal Constitutional Court to exercise its authority in a timely and effective manner. It is contrary to the intent of the Basic Law that there should be comprehensive constitutional jurisdiction that proceedings pending before the Federal Constitutional Court are disregarded by the Executive. If, by the way of an exception, a situation occurs, as in this case, where the Executive feels that it is absolutely necessary that a Treaty be put into force before proceedings before the Federal Constitutional Court have been concluded, those constitutional bodies who are responsible therefor will have to answer for the consequences which might possibly result therefrom." (Page 17 of the opinion given in the judgement.)

II. 4. Furthermore, the Federal Constitutional Court notes, in a binding manner, that in case of expansion of the Basic Treaty, "each of these further legal measures must not only be in accordance with the Treaty, but also in accordance with the Basic Law"—"already today it must be made quite clear that everything that will occur with reference to the Treaty as far as any further legal measures are concerned, is not already legally valid solely because the contractual basis (the Treaty) cannot be objected to from a constitutional standpoint". (Page 25/26 of the opinion given in the judgement.)

Thus, the Federal Constitutional Court establishes constitutional restrictions and positive guidelines as far as the future political actions concerning Germany are concerned. This constitutes one of the most significant elements of the judgement.

The Federal Government is taken at its words by the Federal Constitutional Court. By taking over the interpretation which had been presented, for internal use, by the Federal Government before "parliament" and the Federal Constitutional Court, and by developing it to be even more favorable as far as the Basic Law is concerned, the Court was able to declare the Basic Treaty in this—and only this interpretation—as being consistent with the Basic Law. It has, however, definitely laid down in writing this interpretation for the future and has imposed upon all bodies of the Federal Republic of Germany the legal obligation to advocate it not only internally, but also externally. Thus, a legal stop has been put to the drawing-back of the Brandt Government, step by step, from its own political positions regarding the Eastern countries, and Germany as it was documented since the Governmental statement on 28 Oct 1969 on Erfurt, Kassel, the Moscow Treaty, and the negotiations regarding the Basic Treaty, which stop is stronger than the political resolution of the German Federal Diet regarding the "Eastern Treaties" which was taken on 17 May 1972.

The justification attempts of Mr. Egon Bahr to make the political truth, in each case, dependent on the existing parliamentary majority, have thus also been obviated. It is not unjustly that the commentary contained in the "Bonner Generalanzeiger" dated 1 Aug 1973 points out that "in some places, the judgement reads like an official regulation directed to Mr. Bahr's address."

At the same time, however, the judgement has also quite openly *exposed* the *ambiguity between the partners to the Treaty*. By virtue of the judgement, the Federal Government has now been legally compelled, in its discussions with the Government of the German Democratic Republic regarding the interpretation, handling, and expansion of the Basic Treaty—and toward the rest of the world—to abide by the interpretation declared to be binding by the Federal Constitutional Court. It will no longer have to accept, without much contradiction, the interpretation of the Treaty by the other side which is diametrically opposed as it has done as far as the presentation by Foreign Minister Winzer of the German Democratic Republic on 13 June 1973 (on the occasion of the passage of the Basic Treaty in the lower house of the German Democratic Republic) was concerned.

II. 5. The Court has unmistakably confirmed the *precedence of the Constitution* and the *division of power in a constitutional state* embodied in it.

The political actions of the Executive must be integrated into the legal restrictions of the Basic Law, and must be measured by its standards. This constitutes the function of constitutional jurisdiction which cannot be dispensed with in a liberal constitutional state.

Just how necessary it was for the Federal Constitutional Court to clarify this point is shown by the fact that influential circles which, among others, are articulated by "Vorwaerts," are not willing to submit to this basic principle of a democracy in a constitutional state even after the judgement pronounced at Karlsruhe, and thus display an understanding for the Constitution which alarmingly reminds of the totalitarian attitude of the National Socialists or the "Socialists" of the "People's Democrats."

On 2 August 1973, "Vorwaerts" affords such voices a chance to speak:

"By negatively assessing the Basic Treaty, the Federal Constitutional Court would have assumed a position which would have been directly opposite to that of the people from which, according to the contents of the Basic Law, all supreme power—even that of the Court itself—is derived. A confrontation of this nature is, it is true, possible in case of a liberal Constitution such as the Basic Law constitutes because the constitutional jurisdiction is intended to also create a bulwark against the unrestricted sovereignty of the people. It cannot, however, be considered poltically desirable; for inevitably the question would have arisen whether the people or the Constitution were the sovereign in the state.

This confrontation would also not have been advantageous as far as the institution of the Federal Constitutional Court itself is concerned. An authority which has the responsibility to safeguard the Constitution which, due to its right to review, replaces a decision by elected representatives of the people, must represent itself the general views of a people in order to be recognized. It is a matter of course that a rejection of the Basic Treaty which had just been indirectly approved by the people, would have impaired this recognition."

("Vorwaerts" dated 2 August 1973, Article by Peter Eichenborn, "How to wake up sleeping dogs").

III

III. 1. In its substantive statements regarding the interpretation of the Basic Law as a standard for the Basic Treaty, the Court has illustrated the pertinent provisions of the Basic Law applicable to the interpretation, handling, and expansion of the Basic Treaty, and has thus established restrictions and guidelines for future political actions regarding Germany.

The Court has—true to the precept of its continuous administration of justice "that, among several possible interpretations, that specific interpretation must be selected according to which the Treaty would be valid as far as the Basic Law is concerned" (Page 16 of the opinion given in the judgment)—declared an interpretation of the Basic Treaty to be binding which largely eliminates its ambiguity—and thus one of its most decisive defects.

Thus, the Court has prevented the danger rightfully feared by the opposition that, through the Basic Treaty, the Basic Law and the constitutional responsibility embodied in it are excavated for the purpose of "the accomplishment of the unity and liberty of Germany with free self-determination".

The most important objective of the Bavarian legal action has been achieved with this binding interpretation of the Basic Treaty which is in conformance with the Basic Law.

The judgment may constitute a contribution to the internal pacification in our nation if it is recognized by all political powers bound to the liberal democracy as a joint basis for political actions concerning Germany brought into line with the Basic Law.

The Christian-Democratic Union/Christian-Social Union has immediately—not only from respect for the Federal Constitutional Court, but also from inner conviction—adopted the interpretation of the Court. It was able to do that since this interpretation of the Basic Law as well as the Basic Treaty is by far closer to the demands made by the CDU/CSU of an internal German Treaty than the ambiguous and contradictory interpretations which could be heard from the camp of the coalition.

The judgment pronounced in Karlsruhe becomes a touchstone where the minds will separate.

On 9 August 1973, Radio Moscow has struck the key-note for the discussions to come in the first substantive comment from the Communist side:

Total rejection of the judgement, especially of its supporting observations regarding the identity of the Federal Republic of Germany with the German "Reich" which continues to exist, the fact that Berlin is covered by the Basic Law, the unity of the nation as the unity of the all-German national people, the special relationship between the two nations in Germany, the responsibility of the Federal Republic of Germany for Germany as a whole and all Germans.

Nobody in Germany will now be able to avoid the decision either to advocate the interpretation of the Basic Treaty given, in a binding manner, by the Federal Constitutional Court, and thus a future free Germany according to the model of the liberal democracy in a constitutional state, or to submit to the communist interpretation of the Treaty, and perhaps even to "do the dirty work" for a future communist campaign for unity.

In this case, the dividing line will not be found between coalition and opposition, but within the larger Government party which now will no longer be able to avoid an internal elucidation.

III. 2. In the observations regarding the legal status of Germany, the Court has confirmed the message of the Basic Law and its own jurisdiction up to that date within the meaning of the theory of identity:

"The Basic Law—and not only a thesis of the international law doctrine, and the political law doctrine!—proceeds on the assumption that the German "Reich" has outlasted the fall in 1945 and has not gone down either with the capitulation, or through the exercise of supreme power in Germany by foreign nations in the form of the allied occupational forces, or at a later date . . .

The German "Reich" continues to exist, it continues to possess legal capacity; however, in the absence of an organizational structure, it . . . itself does not have capacity to act as an overall nation.

The idea of the all-German national people and of the all-German supreme power is also "embodied" in the Basic Law.

The responsibility for "Germany as a whole" is—also—borne by the four powers.

(Page 18 of the opinion given in the judgement)

"With the establishment of the Federal Republic of Germany, not only was a new West German nation founded, but a part of Germany was reorganized."

"Thus, the Federal Republic of Germany is not the 'legal successor' to the German

'Reich', but rather, as a nation, it is identical with the nation called German 'Reich'—with reference to the area covered, however, it is 'partly identical' so that, insofar, the identity does not claim exclusiveness" . . .

"It (the Federal Republic) restricts its sovereignty to the 'area covered by the Basic Law' . . ., but also feels responsible for the entire area of Germany" . . .

"At the present time, the Federal Republic consists of the "lands" as mentioned in Article No. 23 of the Basic Law, to include Berlin. . . ."

"The German Democratic Republic is a part of Germany, and in its relationship with the Federal Republic of Germany, it cannot be considered a foreign nation"—(Page 19 of the opinion given in the judgement)

With this, the Federal Constitutional Court counters the Communist position regarding the "fall of the German 'Reich' " and the "creation of two new nations" and the "special political entity of West Berlin" with the position of the Basic Law regarding the legal continuity of the German "Reich" and the identity of the Federal Republic of Germany therewith.

The Law by virtue of which the Federal Republic of Germany has come into existence in 1949 is also confirmed without doubt with respect to those trends in the Federal Republic of Germany which already wanted to shelve the theory of identity and which, in their sickly historical vainglory, felt that they had to "liberate" the Federal Republic of Germany from its all-German responsibility and the continuity of German history.

While the counsel for the Federal Government, Prof. Kriele, representing it in the proceedings regarding the constitutionality with respect to the Basic Treaty, had still agreed, in the oral proceedings on 19 June 1973, with the party bringing the action on the continued existence of the German "Reich", he did object to the theory of identity:

5. "Therefore, the Basic Law does not contain any commitment to the thesis of identity . . ." (Page 18 of the pleadings)

6. The thesis of identity brought forward by the parties initiating the proceedings, therefore, does not constitute valid constitutional law . . . the use of the thesis of identity which has occasionally occurred is "obiter dicta" (of the Federal Constitutional Court) . . ." (Page 36 of the pleadings)

Numerous statements by politicians of the Government coalition show the same tendencies, such as:

Minister President Kuehn (Social-Democratic Party of Germany) in accordance with the minutes taken in the Federal Upper House on 2 February 1972:

"A chapter of German history after the war which was characterized by terms such as 'claim to sole representation', 'Hallstein doctrine' and 'theory of identity', has been concluded".

Vice President of the Federal Diet, Prof. Carlo Schmid on 15 January 1970 in the Federal Diet:

"But none of these nations is identical with the German 'Reich', none is, within the strict sense of the word, the legal successor to the former German 'Reich' ".

Federal Minister of the Exterior Scheel in the German Federal Diet in answer to the question raised by the delegate of the Christian Democratic Union, Dr. von Bismarck, regarding the theory of identity on 29 April 1970:

"The Federal Republic of Germany acted on its own behalf; he did not want to base the manner of proceeding of the Federal Government on a theory, but measure it by the requirements in practice".

With respect thereto, Federal Chancellor Brandt pointed out to Dr. von Bismarck in private:

"This was true; the Federal Government would give up the theory of identity."

III. 3. Above all, the Federal Constitutional Court has also confirmed the precept of reunification laid down in the preamble to the Basic Law in its full legal content, and has, insofar, illustrated the Saar judgement, and the judgement concerning the Communist Party of Germany:

"The reunification is a constitutional precept" . . .

"From the precept of reunification, it follows first of all: No constitutional body of the Federal Republic of Germany may abandon the restoration of the national unity as a political objective, all constitutional bodies are obliged to work toward the achievement of this goal in their political actions—this includes the demand to keep the claim to reunification alive internally, and to persistently advocate it externally—and to avoid doing anything which would prevent the reunification . . ."

(Page 21 of the opinion given in the judgement).

The judgement establishes an inner relationship between the precept of reunification (Sentence 3 of the Preamble to the Basic Law) and the "preservation of the national and political unity" of the German people (Sentence 1 of the Preamble), and it gives a clear content to the precept of reunification; i.e. in view of the open ambiguity regarding the "national issue" in the Preamble to the Basic Treaty:

"The 'national issue' for the Federal Republic of Germany is more concretely the precept of reunification of the Basic Law which is aimed at the 'preservation of the national unity of the German people' ". (Page 31 of the opinion given in the judgment)

Thus, the Court again puts primary emphasis on a clear-cut constitutional category, the national unity, as against all those tendencies which speak of German unity only in more and more vague political terms such as "unity of the nation" any more. According to this judgement, there is no switching-over any more to an indefinite political term of a "German nation" or even to the non-political term of the cultural nation.

The Court expressly emphasizes:

"The clear legal position of any Government of the Federal Republic of Germany is:

"We have to proceed on the assumption of the existence of a Germany as a whole with a German (overall) political people and an (all-) German supreme power.* If, today, one talks about the "German nation" which constitutes one bracket for Germany as a whole, then there are no objections to that if this is also understood to mean a synonym for the "German political nation", i.e. that specific legal position is adhered to, while a different formula is used merely for political considerations.

"If, however, only the concept of a linguistic and cultural unit existing in the minds of the people was hidden behind this new formula of a "German nation", then this would legally constitute the abandonment of a legal position which we cannot give up.

"The latter would be contrary to the precept of reunification as an objective which must be aspired by the Federal Government with all permissible means". (Page 22/23 of the opinion given in the judgment)

Numerous statements made by circles of the Federal Government and the Government coalition can no longer be brought into line with these unequivocal observations by the Federal Constitutional Court which, during recent years, have entailed the danger that the political terms and objectives concerning Germany would vanish in the fog of non-commitment:

Thus for example:

Federal Chancellor Brandt in the New Times dated 29 April 1973:

"The realization and the acceptance of the realities which were left behind by the Second World War which was started by Hitler and lost by Germany was—like the fulfillment of many a requirement—a painful act of liberation. Before the Moscow and Warsaw Treaties, the German contributions to the Quadripartite Agreement on Berlin and the Treaty which normalizes our relations with the second German nation, an unjust reservation was imposed on all our political actions that the Germans might try in the end after all to subject the tragic history of this century to highly questionable review proceedings. We have put an end to this illusion. Perhaps, we have thus liberated ourselves from the burden of a "special" fate and have finally become what we want to be: a proper European nation the inhabitants of which know that the world is tired of being confronted, generation after generation, with the torment of a "German issue" articulated differently in each case.

III. 4. The Federal Constitutional Court warns of an inadmissible abandonment of a legal title, and of the disregard of the positions of the Basic Law governed by constitutional law as mentioned above:

"The political responsibility therefor (for assessing the chances of a political decision) rest solely with the political authorities.

A restriction which must, however, be illustrated, defined, and—if required—enforced by the Federal Constitutional Court, exists in the legal and constitutional nation of the Federal Republic of Germany in that the Constitution prohibits that the Federal Republic of Germany renounce a legal title (a legal position) under the Basic Law by means of which it is able to work toward the realization of the reunification and self-determination, or create a legal title which is inconsistent with the Basic Law, or take part in the establishment of such a legal title which can be put in the way of its efforts to achieve this objective. . .

One can . . . put up with the realities politically. The Basic Law demands, however, that insofar no legal title laid down in it be abandoned which could, now or later, provide a reason for the enhancement of the efforts to bring about a reunification. Accordingly, the same applies if the case is reversed: Political actions may turn out later on to have been "calculated wrong", and the Federal Republic of Germany might be politically reproached by others regarding its efforts to effect a reunification; these facts on which the Federal Constitutional Court does not comment with one single word differ significantly from the others where the Federal Republic of Germany is instrumental in a legal instrument which others would be able to put in its way in its efforts to bring about a reunification." (Page 21/22 of the opinion given in the judgment.)

The deprecatory statements concerning "legal terms stuff" which Federal Chancellor Brandt is said to have made, do not go with this observation of the Court.

Federal Chancellor Brandt in Oslo on 10 December 1971 (Bulletin of 13 December 1971):

"I said real situation. One does not realize this if one falls victim to self-deception or mistakes politics for jurisprudence."

III. 5. The Court warns particularly of neglecting the constitutional basis for the legal continued existence of Germany as a whole, and the political efforts to achieve a reunification based thereon, and only to gear it any more to the responsibility of the Four Powers as a last bracket under international law.

"The same (renunciation of legal positions contrary to the Basic Law) would apply if the reference to the responsibility of the Four Powers for Germany as a whole would mean that this alone would constitute a (last) legal bracket for the continued existence of Germany as a whole; it is only constitutional—as it is also understood by the

*As presupposed in the Basic Law, and "embodied" in it.

Federal Government itself—that it forms a further legal basis for the efforts of the Federal Government to achieve a reunification, i.e. a basis "under international law" besides the one "under constitutional law".

(Page 23 of the opinion given in the judgement)

While the Court exempts the Federal Republic from such a reproach, this seems to have been done more with the intention to commit the Federal Government to this position.

The observation of the Court, however, is objectively required since some statements at least create the impression as if Germany only existed as an "allied reservation" any more.

IV.

In the course of the legal valuation of the Basic Treaty itself by virtue of the political standards of the Basic Law regarding Germany, the Court has established numerous road markings for the interpretation, handling, and expansion of the Basic Treaty.

IV. 1. In the opinion of the Court, the Basic Treaty does not constitute an agreed "modus-vivendi-treaty", "no action which can be corrected at will", but "a basis for political actions designed for long-term effectiveness (without any time limit and any provision regarding termination)", a "historic throwing of switches on the basis of which it is intended that the relationship between the Federal Republic of Germany and the German Democratic Republic be reshaped". For the "legal elaboration on the new co-existence and co-operation of the two nations" required on the basis of this Treaty (cf. Article 7 of the Treaty), "constitutional restrictions" for the later "expansion" of the Treaty are laid down in the judgement already now. In addition, any subsequent agreement will—as it is expressly pointed out by the Court—have to be reviewed as to whether it is not only in accordance with the Basic Treaty (in the interpretation of the Basic Treaty as contained in the judgement) but also in accordance with the Basic Law.

IV. 2. The Court attaches particular value to the observation that the treaties which have been concluded in the past are not affected by the Basic Treaty (Article 9).

In this connection, it quotes Article 7 of the Treaty on Germany of 1952/54 according to which the Federal Republic of Germany, as well as the Federal Republic of Germany and the Three Powers are, as before, obliged to make a joint effort "in order to realize their joint objective with peaceful means: a reunited Germany which possesses a liberal-democratic constitution similar to that of the Federal Republic of Germany, and which is integrated into the European community".

With that, the Court subjects the Basic Treaty to the decision, on principle, of the German and Western political actions after the war toward a reunification of Germany under a liberal and European omen.

The judgment also puts the "document regarding the German unity" into this context:

"This document which must be understood in the light of the constitutional situation as described above, and the contractual obligation under Article 7 of the Treaty on Germany undertaken at an earlier date which was quoted above, only confirms that which ensues from the interpretation of the Treaty itself:

. . . For the Federal Republic of Germany, the "national issue", in more concrete terms, consists of the precept of reunification of the Basic Law which is aimed at the "preservation of the national unit of the German people . . ."

The observations of the Court regarding Article 23 of the Basic Law "which has neither become out of date due to the political developments, nor has it become obsolete for any reason, (but) continues to apply unchanged", point in the same direction of a political platform aimed at a liberal reunification (Page 36 of the opinion given in the judgment).

The judgment stipulates in this connection:

"Article #23 of the Basic Law says: This Basic Law, for the time being, applies within the area of the "lands" . . . . . In other portions of Germany, it shall be put into force after their accession. It is obvious that this provision is directly connected with the precept of reunification. But this it not the important issue in this case. The provision has its own significance and belongs, according to its contents, to the central regulations which give to the Basic Law their special character. It says that this Federal Republic of Germany regards itself as incomplete as far as its territory is concerned that it is obliged, by virtue of this constitutional provision, to do everything required therefor on its own as soon as this becomes feasible, and as soon the preparedness of other portions of Germany to accede exists, and that it will only be "completely" that which it desires to be if the other portions of Germany belong to it. This "legal openness" toward the desired addition specifically consists of the fact that it, the Federal Republic, is the sole legal master of the decision regarding the admission of the other parts so soon as they have decided to accede. Consequently, this provision prohibits the Federal Government from becoming, as a result of a treaty, subject to a dependence according to which it is no longer legally able to realize the integration alone, but only in agreement with the party to the Treaty . . . . . ."

(Page 35 of the opinion given in the judgment.)

This integration of the other portions of Germany into a free German nation which must remain legally possible also after the Treaty has been put into force, constitutes the legal position to be observed as a general principle which must be held against the political conception of the German Democratic Republic that a unification would only be possible in a Communist German nation of the future. (Page 37 of the opinion given in the judgment.)

On account of these three determinations, the judgment demands of an active reunification policy which is consistent with the Basic Law and the Basic Treaty (in the interpretation given in the judgment) that it be aimed at achieving an all-German nation on the basis of the model of the liberal order of the Federal Republic of Germany which is integrated into the European community.

Any concluding of pacts in the fashion of the "people's front" with the "reunification campaign under the red flag" to be expected from East Berlin would thus be inconsistent with the Basic Law and the Basic Treaty (in the interpretation of the Court).

Thus a reunification according to the "Yugoslav model" or the Bahr model of a neutralistic Germany as a whole which would have to withdraw from the European integration would be just as contrary to the Basic Law.

Thus, Egon Bahr had stated during an interview on 4 June 1970:

GAUS. Why is it that important for you to achieve the national-political reunification at the end of this long-drawn-out, step-by-step process? Why?

BAHR. I do not expect that there will be a European Federal State up to then in which the identities of the nations are dissolved.

GAUS. And you would not actually want that; haven't you secretly always considered de Gaulle to be a bliss?

BAHR. I regarded him as a realist with respect to this issue.

GAUS. Let us assume that you would have the choice between the Europe of the national-political individual countries and the Europe which has left the national unities behind, let us assume, as regards the sentimental value of which you have said that the full-fledged political person needs it, and which might be inherent in one or the other, would you decide for the national-political solution?

BAHR. Yes, of course, since it includes the immense progress toward Eastern Europe and the Eastern European nations, while, in the other case, I am afraid—this might not be true, but I fear—that the other one could only be obtained by paying the price of turning away.

GAUS. You believe that Eastern Europe would be unable to go along on the other course?

BAHR. Yes.

On 29 January 1973, Herbert Wehner stated in the "Augsburger Allgemeine" that "an approximation of the social orders of the Federal Republic and the German Democratic Republic might be possible as a consequence of the effects of the Basic Treaty".

IV. 3. In a negative respect, the judgement—as a logical consequence—prohibits the recognition, under international law, of the German Democratic Republic by the Federal Republic of Germany:

"Within the meaning of international law, the German Democratic Republic is a nation and as such subject to international law. This observation is independent of a recognition, under international law, of the German Democratic Republic by the Federal Republic of Germany. Not only has the Federal Republic of Germany never formally pronounced such a recognition, but—on the contrary—has expressly refused to do so on repeated occasions. If one considers the manner of proceeding of the Federal Republic of Germany in the course of its policy of easing of tensions as regards the German Democratic Republic, and particularly the conclusion of the Treaty, as a factual recognition, then it can only be understood as a factual recognition of a special nature."

"It is the special character of this Treaty that it is, it is true, a bilateral Treaty between two nations, to which the regulations of international law apply, and which possesses the validity that any other Treaty under international law has, but between two nations which are portions of a comprehensive nation of Germany as a whole—which is still in existence, even if it is unable to act because it has not yet been reorganized—with a uniform national people the borders of which need not be exactly defined at this point.

This brings about the special legal proximity in which the two nations are to each other; as a logical consequence, the provision in Article 8 results therefrom under which both nations do not exchange ambassadors, but permanent representatives at the seat of the particular Government . . . ." (Pages 27/28 of the opinion given in the judgment).

With this observation in principle, the Court opposes all tendencies to recognize the German Democratic Republic either directly or in an implied manner under international law.

Certainly, the demand of the Young Socialists during the Federal Convention of Young Socialists in Munich in 1969 was inconsistent therewith:

"The Federal Government must make it clear that it recognizes the German Democratic Republic under international law. . ."

These considerations are inconsistent with the refusal, as a matter of principle, to recognize the German Democratic Republic by the Federal Republic under international law as had been emphasized by the Court, that with the release of the international consolidation of the German Democratic Republic by the Federal Republic of Germany the ground might, in the final analysis, be

cut from under the policy of non-recognition, which constitutes a development which was no longer precluded by Wehner already in 1970:

"I have held that the recognition under international law is not an absolute matter, that we must bring about a situation in which it might, by all means, be conceivable that we might modify or completely change this non-recognition." (Spiegel, 26 January 1970).

For the political actions in practice, this determination of the Court will gain acute significance already in the near future:

On the one hand, agreements are not indicated in the impending negotiations with the German Democratic Republic on the establishment and the legal status of the mutual "Permanent Representations" which might permit the assumption that the German Democratic Republic is recognized, in an implied manner, by the Federal Republic of Germany under international law, such as, for instance: Accreditation of the "authorized representatives" with the head of the state; integration into the diplomatic categories of the Vienna Convention on Diplomatic Relations; inclusion in the list of the Diplomatic Corps; addressing as ambassador, etc.

On the other hand, it is a consequence of the non-recognition policy demanded by the Court that the Federal Government is obliged to prevent, in this respect, undersired results of the simultaneous accession of both nations to the United Nations beyond all doubt by means of a declaration of reservations that this does not constitute a recognition, under international law, of the German Democratic Republic by the Federal Republic of Germany.

IV. 4. The qualification of the inner-German border as a border, under constitutional law, between two nations is particularly noteworthy in the judgement, the 'peculiarity' of which it is that they exist on the basis of the nation 'Germany as a whole' which is still in existence." (Page 32 of the opinion given in the judgement)

". . . one must proceed on the assumption that Article 3 Par. 2 of the Treaty contains a new and additional (to the Moscow Treaty) recognition, under the Treaty, of the border between the Federal Republic of Germany and the German Democratic Republic, and that it guarantees this border constitutively. In the qualification as set forth above (and only in this qualification) it is consistent with the Basic Law."

(Page 34 of the opinion given in the judgment)

In view of this clear observation, it must be considered as being disquieting when Mr. Bahr talks of "quite a normal border between the Federal Republic of Germany and the German Democratic Republic" just like between other nations.

These determinations—qualification of the border and the prohibition of the recognition, under international law, of the German Democratic Republic—also prohibit it that the German Democratic Republic be treated as a foreign nation in subsequent treaties.

This concerns particularly the following:

Agreements regarding the trade (the judgment itself already prohibits expressly that "the trade between the Federal Republic of Germany on the basis of the existing agreements as referred to in the additional minutes supplementing Article 7, #1, must not become foreign trade in the course of the continued development, i.e. no customs border must be agreed upon in this area.") (Page 43)

Regarding the postal and communications agreement as provided for in the additional minutes supplementing Article 7, #5, no agreement can thus be concluded either which would make postal traffic a foreign traffic.

Insofar, it is surprising why the Court has not dealt, as a matter of consequence, with the conclusion of a postal and communications agreement on the basis of the statutes of the Universal Postal Union (UPU) and the International Communications Treaty (UIT) as provided for in the "correspondence regarding postal and communications matters" and in the additional minutes supplementing the Basic Treaty (to Article 7, #5), which—if it were brought about without appropriate reservations—would make the inner-German postal and communications traffic a foreign traffic.

Section 11 of the Transportation Treaty dated 26 May 1972 between the Federal Republic of Germany and the German Democratic Republic will yet have to be examined in this connection by virtue of which both nations have joined the International Conventions regarding the Railroad Passenger and Baggage Transportation (CIV) and regarding freight transportation (CIM) and have made their bilateral railroad traffic subject to these international agreements which are applicable to foreign traffic.

IV. 5. Without special emphasis, the Court objects—in connection with its observations regarding the legal status of Germany—to legally excluding Berlin from Germany, and to the creeping consumption of the vital ties of West Berlin to the Federal Republic of Germany.

In an imploring manner, it reminds all constitutional bodies of the position of Berlin which, up to date, has been jointly maintained:

"The Treaty does not change the legal situation of Berlin as it has, at all times, been defended by the Federal Diet, the Federal Upper House and the Federal Government, the "Lands" of the Federal Republic and the Federal Constitutional Court jointly by making reference to the Basic Law. The Basic Law obliges all constitutional bodies within the Federal Government and the "Lands" also for the future to assert this legal position without restriction, and to advocate it. It is only in this context that the statements of both sides with respect to Berlin (West) can be interpreted and understood." (Pages 40/41 of the opinion given in the judgment)

As far as the political application in practice is concerned, and especially as regards the subsequent agreements to the Basic Treaty, it is, besides this strict adherence to the legal positions of the Basic Law with respect to Berlin, the ensuing "obligation, under the Basic Law, of those bodies acting on behalf of the Federal Republic of Germany" "to insist, with any convention and with any agreement concluded with the German Democratic Republic which, according to their contents, could be extended to include the "Land" of Berlin and its inhabitants, that they be extended to include Berlin, and only to to conclude these if the legal status of Berlin and its inhabitants as compared to the legal status applicable within the purview of the Basic Law—subject to the allied reservation applicable to Berlin, and "in accordance with the Quadripartite Agreement dated 3 September 1971"—is not curtailed." (Page 41 of the opinion given in the judgement)

As a particularly rigid consequence, the Court permits an interpretation of the Basic Treaty only to the extent that the margin of discretion ("There is an understanding that it can be agreed upon in each particular case that those conventions and arrangements as provided for in the additional minutes supplementing Article 7 be extended to include Berlin (West)") as granted to the parties to the Treaty in the correspondence re the Basic Treaty (on the extension of subsequent agreements to include Berlin (West)) is understood to mean "an obligation under the Basic Law", a "must" for all Federal bodies.

With that, the damage to Berlin to be feared as a result of one of the decisive defects of the Basic Treaty has been prevented to the extent that this is possible within the scope of the interpretation of a Treaty. The complaisance as regards the Communist pressure which was displayed during the Berlin negotiations and during the negotiations with respect to the Basic Treaty by the chief negotiator of the Federal Government now meets with a constitutional barrier which the Court felt a particular necessity to remind us of.

Just as significant is the express obligation, under constitutional law, of the "Land" of Berlin by the Court to make use of the possibility of "agreements between the German Democratic Republic and the Senate" as granted in Para. 3 of the declaration by both sides regarding the extension of subsequent agreements to include Berlin (West) only in such a manner which is consistent with the provisions of the Basic Law.

This obligation was all the more necessary since, with these direct special agreements between the Berlin Senate and the German Democratic Republic which have express precedence of the subsequent agreements between the German Democratic Republic and the Federal Republic of Germany ("remain unaffected"), the extension of subsequent agreements between the Federal Republic and the German Democratic Republic to include West Berlin which had been considered possible, could have been thwarted.

The Court was not able, it is true, to gain back everything that the negotiator of the Federal Government "paid"—in view of the elections for the Federal Diet—at the expense of Berlin for the accelerated conclusion of the negotiations regarding the Basic Treaty. It has, however, still done everything in its power in order to stem off any further infringements on the status and the association of the "Land" of Berlin with the Federal Republic of Germany. Not only the opposition which has always pointed out the inexcusable neglect of Berlin's interests in the Basic Treaty, but also the Federal Government and the Senate of Berlin, let alone the Berliners should be grateful therefor to it.

IV. 6. The gratifying clarification of the legal status of Germany by way of the judgement finds its equivalent regarding the legal status of individuals with reference to which the Court makes legally binding observations regarding questions of citizenship and the obligation of the Federal Republic of Germany to provide for the welfare of all Germans within the meaning of the Basic Law which are just as gratifying.

The Court did not settle for the statement of the Federal Republic of Germany in the minutes "that matters concerning citizenship had not been provided for in the Treaty", and the assertion incorrectly made by the Federal Government that thus the issue of citizenship would not be affected at all by the Basic Treaty.

On the contrary: the Court confirmed the all-German citizenship of all Germans within the meaning of the Basic Law as referenced in Articles 16 and 116 of the Basic Law, no matter in which "portions of Germany" they resided. It unequivocally prohibits a curtailment of this German citizenship to the inhabitants of the Federal Republic, and particularly does not permit a curtailment of the legal status of the Germans residing in the German Democratic Republic.

The Court observes, by way of a warning:

"If the Treaty would have to be understood to mean that the inhabitants of the German Democratic Republic within the purview of the Basic Law can no longer be treated as Germans within the meaning of Article 16 and Article 116, Para. 1, of the Basic Law, it would clearly be contradictory to the Basic Law.

Therefore, in order to be in concurrence with the Constitution, the Treaty requires

the interpretation that, also in this respect, the German Democratic Republic had not become a foreign country for the Federal Republic of Germany after the Treaty has been put into force. (Pages 38/39 of the opinion given in the judgment).

Thus any considerations being entertained by Mr. Egon *Bahr*—should they be realized—have already, as a matter of precaution, been made subject to the verdict of being inconsistent with the Basic Law.

During a press interview with the State Secretary of the German Democratic Republic, Mr. Kohl, Bahr had stated in East Berlin on 21 December 1972:

"For me, that is not a foreigner. But for me, it is a permanent resident of the German Democratic who is subject to the civil rights of that nation and whom we cannot claim under our civil rights."

(Press report by the Federal Press Office dated 22 Dec. 1972)

It was with just as much gratifying clearness that the Court has drawn the conclusion from this observation under constitutional law that the Basic Treaty must not mean any restriction of the obligation, under the Basic Law, of the Federal Republic of Germany to provide for the care and welfare of all Germans within the meaning of the Basic Law, nor must it ensue therefrom.

"The Treaty, furthermore, requires the interpretation that—notwithstanding any provisions regarding the citizenship status in the German Democratic Republic—the Federal Republic of Germany will treat any inhabitant of the German Democratic Republic who comes into the area protected by the Federal Republic of Germany and its Constitution, as a German like any citizen of the Federal Republic in accordance with Article 116, Para. 1, and Article 16 of the Basic Law. He therefore enjoys, to the extent that he comes into the purview of the Basic Law, also the full protection of the courts of the Federal Republic and all guarantees of the basic rights under the Basic Law, to include the basic right under Article 14 of the Basic Law. Any curtailment of the protection, under constitutional law, which is granted by the Basic Law, by means of the Treaty or an agreement for the expansion of the Treaty, would be inconsistent with the Basic Law.

It ensues from the special nature of the Treaty as described that the Treaty also is not inconsistent with the obligation imposed upon the Federal Government under the Basic Law to afford all Germans within the meaning of Article 116, Para. 1, of the Basic Law protection and welfare. It is, as before, authorized, within the purview of the Basic Law,—through all their diplomatic representations, and in all international bodies of which it is a member—to raise its voice, to assert its influence, and to advocate the interests of the German nation, for the protection of the Germans within the meaning of Article 116, Para. 1, of the Basic Law, and also to render assistance to each individual one of them who appeals to an agency of the Federal Republic of Germany with the request for effective support in defending his rights, particularly his basic rights. In this area, no legal distinction will exist also in the future for the Federal Republic of Germany between the citizens of the Federal Republic of Germany and "the other Germans"."

Thus, the Court rejects, with commendable clarity, the abstinence advocated by the Federal Government with respect to their obligation to provide for the welfare as regards the Germans in the German Democratic Republic.

IV. 7. If the Federal Government felt that, in consideration of their "normalization policy" as regards the Communist nations which was formulated and carried out in a peculiar manner, they had to interpret their obligation, under the Basic Law, to provide care and welfare for all Germans in a restrictive manner, in order to prevent inconvenient interferences with their "policy of easing of tension", they had to actually submit to a distinct correction by the Federal Constitutional Court.

With its pertinent interpretation of the Basic Treaty, the Court even goes beyond what has been said so far (IV.6.).

The dimension of the precept of reunification, under the Basic Law, and the obligation, under the Basic Law—which is in accordance therewith—of all governmental power of the Federal Republic of Germany to provide for the welfare as regards Germany as a whole and all Germans, is expanded by the Court to constitute an obligation under the Basic Law, and brought up to date, not to do anything, or to permit anything to be done, in connection with the handling and expansion of the Basic Treaty, which could restrict the personal freedom of the inhabitants guaranteed by the basic rights catalog of the Basic Law, but, on the contrary, to do everything in order to activate the public awareness for the debate concerning a liberal Germany of the future.

The Court prohibits—as it states—"for example":

"The postal and communications agreement as provided for in the additional minutes supplementing Article 7, #5, must not contain, either for the Germans in the Federal Republic of Germany or for the Germans in the German Democratic Republic, a curtailment or "relaxation" of the guarantee of the sanctity of letters, the mails and communications (Article 10 of the Basic Law), or a restriction of the free exchange of opinions and information not provided for in Article 5 of the Basic Law." (Page 42 of the opinion given in the judgement).

"The Basic Treaty must not serve as a legal basis for stopping, through appropriate legal or administrative measures, radio and television transmisisons which are undesirable to the German Democratic Republic, and thus restricting the freedom of thought and speech in the Federal Republic of Germany which is guaranteed by the Basic Law."

(Pages 42/43 of the opinion given in the judgment).

"The same shall apply to the basic right of the freedom of association. The formation of associations which are undesirable to the other side on account of their program can . . . also not be curbed. . . ." (Page 43 of the opinion given in the judgment)

"By the same token, the Treaty must not be understood to mean that it releases the Federal Government and all remaining bodies in the Federation and the 'Lands' of their constitutional obligation to keep the public awareness alive not only as far as the existing commonness is concerned, but also regarding the question which are the ideological, political and social differences that exist between the rules of life and the legal order of the Federal Republic of Germany and the rules of life and the legal order of the German Democratic Republic. Any attempt to restrict the Federal Republic of Germany in this area in its freedom and its constitutional advocating of the interests of the liberal-democratic basic order by maintaining that it violates the content and the spirit of the Treaty, and that it interferes with the internal affairs of the German Democratic Republic, i.e. that it acted contrary to the Treaty, constitutes itself an inconsistency with the Treaty." (Page 44 of the opinion given in the judgment)

"Finally, it must be evident that the measures presently being practiced at the border between the Federal Republic of Germany and the German Democratic Republic, i.e. the wall, barbed wire, death patrols, and firing order, are downright inconsistent with the Treaty." (Page 44 of the opinion given in the judgment)

Compared to these clear demands made by the Court of the Basic Treaty and of a policy regarding Germany which is in concurrence with the Constitution, the appeasement attempts of the Federal Government towards their partner to the Treaty, and the accompanying music of their journalistic helpers have an almost miserable and depressing appearance.

The Federal Government has their State Secretary in the Federal Chancellery, Mr. Grabert, think out loud about how one could, would be allowed to, and would have to provide assistance to the Germans behind the wall and barbed wire in order to escape, and thus gives the cue to the potentates of the German Democratic Republic for extortionary demands on account of the alleged "improper use of the means of transit".

Federal Minister Bahr defames the demand for abolition of the firing order as being "unrespectable". (WELT, 17 July 1973)

Delegates of the Social-Democratic Party of Germany to the Federal Diet demand the discontinuance of the transmissions by "Radio Free Europe" and "Radio Liberty", as well as intervention, on the part of the Government, regarding the transmissions by the "Broadcast Germany" and the "German Wave-Length", to include the withdrawal of the financial assistance for expellee associations and other organizations.

The Federal Government has restricted to an increasing extent, the objective studies and analyses regarding the division of Germany, and the unjust conditions prevailing in the German Democratic Republic, and has refused to submit, on the occasion of the accession of both nations to the United Nations, a memorandum on the violation of the human rights in the German Democratic Republic.

V

In making an overall assessment of the judgement, it is futile, in view of these contradictions, to ask who are the winners and the losers in the proceedings regarding the conformity of the Basic Treaty with the Constitution (Basic Law).

The restrictions under the Constitution, and the guidelines contained in the judgement, which were established by the judgement concerning the interpretation, handling, and expansion of the Basic Treaty, make it clearly subject to the demands set forth in the Basic Law, and give binding outlines to the future policy regarding Germany within the meaning of a liberal democracy and a constitutional nation. The continuity of the status of Germany as a nation has been defended in the judgement just as much as the identity of the Federal Republic as the responsible supporter thereof, and as the model for a future free Germany as a whole.

The erosion of the German nationalism threatening in the past few years, and the lapsing of Germany into a shapeless cultural nation and consumer association have been contrasted by clear constitutional and political "categorical imperatives."

The policy of a Germany consisting of two nations which has irrevocably been effected by Mr. Brandt and Mr. Bahr, has been declared as being consistent with the Basic Law only on condition that it does not forsake the foundation of the status as a nation of Germany as a whole which is still in existence, that it pursues, with all available means, the tying-together of both parts of Germany as "two nations in Germany" by means of expanding the "special inner-German relationship" which can only be found in the Basic Law in conventional remainders and first beginnings any more, and that it keeps its eye on the objective of achieving a free Germany as a whole according to the model

displayed by the Federal Republic of Germany.

On the basis of this judgement, the constitutional nation and its constitution has won as the foundation and legal criterion of the political actions. The liberal-democratic and European tendency of German constitutional development has won.

Insofar, the judgement issued by the Federal Constitutional Court, and the interpretation of the Basic Law and the Basic Treaty contained therein, might serve as a joint platform for all those political powers in Germany who feel bound to the Basic Law, i.e. the principles of the liberal and constitutional democracy, and who are prepared to advocate a political course leading to a future free Germany. With respect to defending the judgement pronounced at Karlsruhe against the attacks by the Communists and their illusory helpers and hidden stooges which have already been initiated, the minds will part.

Bonn, 14 August 1973.

(Translated by Helga Mayorga, B.A.)

ON THE IMPEACHABLE OFFENSES OF RICHARD NIXON

Mr. MONDALE. Mr. President, on November 27, Mr. Joseph A. Califano, Jr., addressed the District of Columbia Chapter of the Federal Bar Association. Mr. Califano's address was entitled "On the Impeachable Offenses of Richard Nixon."

Mr. Califano is a highly respected lawyer, an active member of the Democratic Party, and a distinguished American. He is a graduate of Harvard Law School and is currently practicing law in Washington, D.C. His service to the Democratic Party included serving as general counsel to the Democratic National Committee. He has served his country in many capacities. From 1965 to 1969, for instance, he served as special assistant to President Lyndon Baines Johnson.

Mr. Califano's broad experience in government, in politics, and in law uniquely qualifies him to speak to the subject of his Federal Bar Association address.

Although, as a potential juror in a Senate impeachment trial, I have refrained, and will continue to refrain, from passing judgment on the impeachability of the President, it is a subject much on the minds of the Members of this body and of the American people.

Given the timeliness of the topic and the scholarly nature of Mr. Califano's address, I believe many Members of the Senate and many readers of the RECORD will pause to consider Mr. Califano's presentation.

I ask unanimous consent that Mr. Joseph A. Califano, Jr.'s, speech entitled "On the Impeachable Offenses of Richard Nixon" be printed in the RECORD.

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

ADDRESS BY JOSEPH A. CALIFANO, JR., ON THE IMPEACHABLE OFFENSES OF RICHARD NIXON

Any discussion of the impeachable offenses of Richard M. Nixon must begin with the Constitution of the United States. Article II, Section 4 provides that "The President . . . shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors." Under Article I, Section 2, the House of Representatives has "the sole Power of Impeachment," and must, by majority, vote Articles of Impeachment. Those Articles are then sent to the Senate which, with the Chief Justice of the Supreme Court presiding, sits as a one hundred man jury, with a vote of "two-thirds of the Members present" necessary for conviction. But Impeachment is not necessarily the end of the road for the President: Article I, Section 3 specifically provides that "the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law."

In treatises on impeachment, the House is often analogized to a criminal grand jury with a duty to indict on the basis of "probable cause;" the Senate is compared to a petit jury, voting guilty only if convinced "beyond a reasonable doubt." Any intelligent discussion of impeachment must note the parallels between the criminal judicial process and impeachment. But any such analysis must recognize the sharp difference in forums between a court and the Congress. Just as the Founding Fathers carefully tried constitutionally to insulate criminal court proceedings from political pressures, they deliberately placed impeachment proceedings right in the middle of the political process. In a very real sense, impeachment is a political proceeding with sufficient judicial trappings to assure the basic elements of fairness, not a judicial proceeding with some political ramifications.

This is not to say that an impeachment proceeding should be a partisan romp. The constitutionally shaped politics of impeachment are essentially apartisan. They are very much founded in the deep American tradition that an informed electorate will set some minimal standards of political decency and morality as a continuing condition of maintaining the legitimacy of electoral power as Chief Executive of the United States—and prod its elected representatives to action where that condition is not met. Indeed, the Constitutionally mandated impeachment responsibilities of the House and Senate were undoubtedly designed to give the suspect President and the constituent citizens full benefit of a politically informed judgment by Representatives and Senators, who are personally familiar with and subject to the election process.

The political nature of impeachment is recognized by all parties to the present proceeding, from Richard Nixon in the White House to the lowest ranking majority and minority members of the House Judiciary Committee. The initial expression of the politics of impeachment in the House Judiciary Committee was evidenced by the party line to give subpoena power to the Chairman. At a much more profoundly democratic (and non-partisan) level, however, the politics of impeachment began with the thousands of telegrams, letters, and phone calls from housewives and their blue collar husbands, from matrons and their professional spouses, from blacks and whites, from secretaries and socialites, in the wake of the Cox-Richardson-Ruckelshaus purge. These messages charged the latent batteries of Congressional anxiety and reflected a constituent concern more deeply shared by American citizens than most Congressmen realized and certainly more sharply expressed than the President and his White House staff anticipated. Even Richard Nixon is likely to admit today that he blew the fuse of American public opinion with the "Saturday-night massacre;" what neither he nor the Congress may have realized was that the circuit of American political tolerance was already overloaded when he pulled the switch on Cox, Richardson and Ruckelshaus. It may not have been the act of Presidential self-electrocution hoped for by the American left; but it certainly jolted the House into action.

Perhaps, more than any other factor, the bruising impact of the American constituents on their Congressmen and Senators most clearly distinguishes impeachment proceedings by the House and the Senate from criminal juries. As a nation we go to great lengths to insulate our grand and petit juries from outside pressures. By contrast, the Founding Fathers deliberately put the President's fate in impeachment proceedings in the hands of that branch of government most sensitive to constituent concerns, particularly by placing the initial "probable cause" stage in the House of Representatives, each of whose members must go to the people every two years to remain in office. Moreover, unlike judges and juries who often recuse themselves or are excused for prejudice or conflicts of interest, there is no such disqualification in the House or Senate. The most avid Nixon hater and the most uncritical Nixon admirer have a duty to vote on the impeachment issues.

Richard Nixon appreciates the political aspect of impeachment. We do not have to accept Majority Leader Thomas P. O'Neill's pejorative characterization of the President "currying favor" with the jurors to recognize that the Nixon meetings with Congressmen and Senators are quite frankly and legitimately designed to influence the impeachment jury. Moreover, the present round of speeches and press conferences are obviously designed to defuse the constituents who so charged up the Congress three weeks ago; indeed they are shrewdly calculated to persuade southerners, in recognition of the political reality that Southern Democrats may well hold the balance of power in any impeachment vote in either the House or the Senate.

The Founding Fathers placed the impeachment process in the hands not only of a politically sensitized branch of government, but also of a politically expert one. The House and Senate are about as blue ribbon politically as juries could be. In one sense, the Congress is likely to have a better understanding of and high tolerance for political activity which may be unsavory and undesirable, but is not impeachable. This may help Mr. Nixon. In another sense, however, they will understand better than most of us how political leaders operate—and this may hurt him. The political leaders in the Congress are more likely than most citizens to conduct impeachment proceedings in the context of a realistic understanding of what it takes to succeed in politics—particularly the enormous need for attention to detail.

Presidents from Washington through Nixon have had different personalities: some have been outgoing, others introverted; some ideological, others pragmatic; some interested only in broad policy, others concerned with the day-to-day operations of government. But every successful American politician, and Presidents are the most successful, like successful lawyers, businessmen and doctors, makes his own decisions and pays close attention to details. By this I mean more than a statement than "the buck stops here," that full responsibility for Bay of Pigs disasters rest at the top or that Vietnam wars, like any others, are waged by Commanders-in-Chief. Whether a President has the publicly seductive style of John Kennedy, the overbearing intensity of Lyndon Johnson or the introverted insecurity of Richard Nixon, he will personally direct every move on major issues, particularly when those moves could decisively affect the marrow of his contemporary political career and historical judgments on the long term value of that career. Thus John Kennedy was involved minute by minute in the desegregation of the University of Mississippi and was so deeply concerned about his 1964 reelection that he went to Texas to try and heal local political scars. Lyndon Johnson followed major legislative proposals which bore his name, witness by witness through Committee hearings, and

congressman by congressman during debate on the House floor. Kennedy was not misled by bad advice when there was death and violence on the campus at Oxford, Mississippi. Johnson was not misled by bad advice when he lost the D.C. Home Rule discharge petition on the House floor. Each man was deeply involved in the tactical discussions and decisions relating to the dramatic events.

And Richard Nixon is not misled by bad advice, or unaware of what his closest aides do. Reasonable men may doubt his advance involvement in the DNC Watergate bugging and burglary; they must recognize that he would have been unworthy of his political success if he were not deeply involved in everything that followed the capture of the burglars on June 17, 1972.

Every one of those presidents was intimately involved on a daily basis with his closest staff members—and those members do not act on their own authority in matters intimate to the President. The concept of a White House staff is that a President is entitled to a group of people whose loyalty runs only to him, not to the Congress and not to constituent pressure groups which often vie for the attention of cabinet and agency heads. Even granting that Lyndon Johnson was much more involved in the minutia of American government than Richard Nixon, it is inconceivable to me that Richard Nixon has not been involved in every aspect of the Watergate scandals since June 17. I do not believe that Ronald Zeigler or Gerald Warren could brief the press without clearing their statements with Richard Nixon directly. My own hunch would be that an analysis of the Presidential logs of Mr. Nixon would show that Mr. Zeigler or Mr. Warren, or whoever was doing the press briefing on a particular day, checked either that day or the night before with Richard Nixon to find out what to tell the White House press corps. A playing of each day's tapes would show the President much more aware of the details of what his press secretaries say than most citizens realize.

This is particularly true where what is at stake is the very continuation of Mr. Nixon's Presidential career. For what Watergate and its surrounding events involve is Mr. Nixon's place in history, Mr. Nixon's personal reputation, and whether he will be convicted of a crime or impeached, remembered as the man who opened the door to China or as the man who headed the most corrupt administration in the history of the free world. Even White House aides as apparently trusted as Messrs. Haldeman and Erhlichman would not be permitted by the President to deal, on their own, in areas as central to Mr. Nixon's personal and political life and reputation as those involved in the present scandals.

From my own perspective as a former White House aide, if the press is to be criticized in connection with its reporting of these scandals, it is not, as Messrs. Nixon and Agnew suggest, because it has been careless in printing unverified charges. It is, rather, because of its acceptance, with so little skepticism, of the myth that Mr. Nixon is somehow the uninformed victim of aides and cabinet officers whose political enthusiasm spilled over into criminality. Yet, this myth defies the reality of Presidential power and the personal, political and historical ambition that accompany the exercise of such power. We do not have to plow through the pages of "Six Crises" to know that Mr. Nixon is most attendant to details that intimately affect his political career. One need not work at the White House to reach that conclusion about any President who served there. One need only understand human nature, politics and fathers who are bound to be concerned about what their children think about them. Any analysis of impeachable offenses must be made against this background.

Scholars and legislators disagree about what actions constitute impeachable offenses. Proposed definitions are as limited as violations of federal criminal statutes in the course of official duties or as broad as Gerald Ford's suggestion that an impeachable offense is whatever the Congress says it is. My own reading of history and precedent leads me to conclude that there are probably three areas of impeachable offenses against which any President must be judged:

1. Violations of criminal statutes.

2. Failure to fulfill his constitutional obligation faithfully to execute the laws of the United States and "preserve, protect and defend the Constitution of the United States."

3. Egregious breach of the public trust the President owes the American people.

Criminal laws provide the narrowest standard—and the least political one—by which a potentially impeachable President may be judged. Even under this limited definition of "impeachable offenses," it is patent nonsense to claim that there is no basis for conducting any impeachment inquiry with respect to Richard Nixon. Solely on the basis of sworn testimony and essentially uncontested news reports, there is ample justification for a healthy suspicion that Richard Nixon has violated at least thirty-eight federal criminal statutes.

The potential violations basically fall into three broad categories: personal corruption and fraud, political corruption, and obstructions of justice. The specific criminal statutes relating to each of these areas must be considered in the context of four basic criminal sections of Title 18—sections 2, 3, 4 and 371:

Section 2 defines a "principal" to a crime as anyone who "commits an offense against the United States, or aids, abets, counsels, commands, induces or procures its commission" or who "willfully causes an act to be done which if directly performed by him or another would be an offense . . ."

Section 3 defines an "accessory after the fact" of a crime as one who "knowing that an offense . . . has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment . . ."

Section 4 provides that anyone who, "having knowledge of the actual commission of a felony . . . conceals and does not as soon as possible make known the same to some judge . . ." himself commits the crime of misprison of felony.

Section 371 provides that "[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States . . . and one or more of such persons do any act to effect the object of the conspiracy," then each of the conspirators is guilty of a felony.

These four basic and well-defined statutes provide the framework against which many of the actions of the President must be judged.

PERSONAL CORRUPTION

Mr. Nixon's personal financial activities give rise to strong suspicions of possible violation of at least seven additional criminal statutes. Four of these statutes relate to tax fraud and tax evasion; three relate to the conversion of government property and defrauding the United States.[1]

The acts which give rise to the suspicions are in large measure on the public record: (1) the tax benefits Mr. Nixon derived from the alleged donation of his personal papers raise questions as to the timing of the donation, the valuation of the papers, and, indeed, whether or not a gift was actually made to the government; after all, Mr. Nixon never signed a deed of gift and the General Services Administration never formally accepted any gift: (2) the possible use of campaign contributions for personal purposes (for example, the $100,000 in cash that Howard Hughes gave to Bebe Rebozo, the early cash from the dairy industry, and the millions of dollars in cash that flowed among Mr. Nixon's personal friends, attorneys and Re-election Committee aides); (3) the issues relating to whether certain improvements to his Key Biscayne and San Clemente properties were justified expenditures of public funds, should have been reported as personal income by Mr. Nixon, or constituted conversion of U.S. government property to his own use; (4) the financial transactions by which he acquired Key Biscayne and San Clemente in the first place, and whether the generous loans of Messrs. Rebozo and Abplanalp should have been reported (at least to some degree) as income by Mr. Nixon.

POLITICAL CORRUPTION

Political corruption may involve Mr. Nixon in an additional nineteen criminal statutes. In the area of election corruption alone, we have some of the more publicized Watergate revelations: the forged Muskie "Canuck" letter; the sexual misconduct letters condemning Senators Humphrey and Jackson; the illegal wiretapping of Democratic National Committee headquarters; the political slush funds which may have been created within government departments, such as the 1 million dollar fund allegedly earmarked by Commerce Secretary Maurice Stans; the solicitation of corporate campaign contributions from any number of large companies and government contractors; the participation in campaign and fund raising activities by federal government employees, most notably the dual role of Attorney General and de facto CREEP Chairman John Mitchell; and, in an apparent attempt to cover-up these activities, the possible filing of false reports with the General Accounting Office and the Clerk of the House and Secretary of the Senate.

At least nine criminal statutes are involved in this election area alone. Some, like the prohibition against corporate contributions, have been on the books for most of this century; others went into effect with the new campaign contribution law.[2] Beyond these matters there is reason to believe that the illegal activities of the Nixon Administration went far beyond corrupting the election process itself. Across the broad spectrum of politics his aides and agents, his lawyers and appointees have been accused or have admitted on the public record the commission of acts which seem on their face to constitute criminal offenses. There are, for instance, numerous instances of the apparent sale and attempted sale of ambassadorial positions to the highest bidder. So blatant has the cash market in ambassadorial posts become that the Senate Foreign Relations Committee today routinely demands complete revelation of political contributions by all Nixon nominees. Perhaps the most notable recent example is Mrs. Ruth Farkas, who was named Ambassador to Luxemburg after pledging some $300,000 to President Nixon's campaign, $200,000 of which was not even paid until after the re-election of the President at a time when his campaign coffers groaned under a substantial surplus. More recently, there have been reports that Cornelius Whitney was promised the ambassadorship in Spain in return for a $250,000 contribution; when the ambassadorship did not come through, the contribution was returned. There is enough evidence for an examination of the relationship between campaign contributors and the promise of appointment or nomination for appointment of individuals to a host of other government posts as well.

Washington abounds with sworn testimony and newspaper stories about contributions which constitute bribes or extortion or both, by any number of companies or industries who critically depend on the federal government. The most notable and publicized relate, of course, to the cozy treatment of

Footnotes at end of article.

IT&T, particularly in the Presidential approval of its Hartford Insurance merger, just as IT&T's Sheraton Hotel subsidiary was promising $400,000 to the 1972 Republican Convention; and to the hundreds of thousands of dollars of cash and other contributions provided by the dairy industry just as Mr. Nixon was raising milk price support levels and changing foreign trade regulations to push up the price of milk and increase the revenues of the industry by hundreds of millions of dollars.

There are other questionable activities as well where the public record provides sufficient information to justify a healthy suspicion of illicit Presidential activity even though the record has not been as fully developed as it has with respect to the IT&T and milk transactions. These activities include the Presidential parole of former Teamsters Union president James Hoffa and the statements by representatives of Ashland Oil, Braniff Airlines and others that CREEP financial chairman Maurice Stans imposed $100,000 quotas in his politically avaricious quest for a $60 million campaign kitty.

At least five additional criminal statutes may have been violated in this political corruption area. For example, it is a felony to solicit or accept anything of value as a political contribution in consideration of any promise of influence in obtaining a federal job; and bribery and extortion statutes may have been violated in connection with many of the corporate contributions.[3]

A wide range of criminal civil rights violations has been perpetrated by the Nixon Administration. Although this discussion is limited to specifically criminal violations, we should not forget that in many cases violations involve arrogant abridgement of the Fourth Amendment rights of every American citizen to be free from unreasonable searches and seizures. The break-in and burglaries of the offices of Daniel Ellsberg's psychiatrist and the Democratic National Committee, and the wiretapping of White House aides and reporters provide the most offensive known incidents of civil rights violations. But there is every indication that they were part of a much larger scheme; we may well not yet have closed the book on the individual liberties that were crushed under the hobnailed boots of the "plumbers."

The context, of course, is the Recommendation and Decision Memoranda of White House staffer Tom Charles Houston and Richard Nixon—the Mein Kampf of the Nixon government. The following excerpts from Mr. Houston's Recommendation Memorandum to President Nixon are essential to an understanding of what happened at the Watergate and in Los Angeles:

C. Mail Coverage

Recommendation:

Restrictions on legal coverage should be removed. Also, present restrictions on covert coverage should be relaxed on selected targets of . . . internal security interests.

Rationale:

* * * * *

Covert coverage is illegal and there are serious risks involved. However, the advantages to be derived from its use outweigh its risks.

D. Surreptitious Entry

Recommendation:

* * * * *

Also, present restrictions should be modified to permit selective use of this technique against other urgent security targets.

Rationale:

Use of this technique is clearly illegal; it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed.

* * * * *

Footnotes at end of article.

On July 15, 1970 Mr. Houston issued the Presidential Decision Memorandum which reflected Richard Nixon's personal response to these recommendations, a response verified by Mr. Nixon's own statement of May 22, 1973. The relevant excerpts are:

The President has carefully studied the special report of the Interagency Committee on Intelligence (ad hoc) and made the following decisions:

* * * * *

3. Mail Coverage.

Restrictions on legal coverage are to be removed, restrictions on covert coverage are to be relaxed to permit use of this technique on selected targets of priority foreign intelligence and internal security interests.

4. Surreptitious Entry

Restraints on the use of surreptitious entry are to be removed. The technique is to be used . . . against other urgent and high priority internal security targets.

Aside from the ominous nature of these papers in terms of our democratic system of government, and aside from the obvious violations of state criminal felony statutes the President's approval countenanced and potentially set in motion, there are profoundly serious violations of federal criminal laws. These include 18 U.S.C. Section 241, the criminal civil rights statute, and 18 U.S.C. Section 2511, the anti-wiretapping statute, to say nothing of the network of criminal provisions designed to prevent interference with and protect the privacy of the mails, among them: 18 U.S.C. Section 1701, which makes one a criminal who "knowingly and willfully obstructs or retards the passage of mail"; Section 1702, which makes it a felony to take any letter out of the post office "before it has been delivered to the person to whom it was directed with design to . . . pry into the . . . secrets of another."; and Section 1703, which makes it a crime for a Postal Service Officer improperly to detain, delay or open any letter.

Obstruction of Justice

The third area of specific criminal activity by the President relates to obstructions of justice. Each day brings us new facts about the actions of the President in this area. But there is already reason to suspect a variety of Presidential actions in connection with the investigations relating to the Watergate break-in: Presidential actions to limit the criminal investigations; hush money paid to defendants to plead guilty; the suborning of perjury by Mr. Magruder and the attempt with respect to Mr. Sloan; the pressure on any number of witnesses and potential prosecutors to inhibit any number of investigations relating to illegal activities; and, of course, the attempt to seduce Judge Matthew Byrne with the F.B.I. Directorship.

At least nine additional Federal criminal statutes are involved here relating to obstruction of justice, the making of false statements, the suborning of perjury and the removal and destruction of records and documents.[4]

It is with respect to the suborning of perjury that the most careful investigation should be made. For the record abounds with examples of Nixon aides and cabinet officials who may have committed perjury and who have certainly made statements inconsistent with either the statements or records of others. Jeb Stuart Magruder has admitted perjury. Hugh Sloan has testified that he was pressured to commit perjury. Richard Kleindienst faces possible perjury charges stemming from his testimony that there was no White House pressure on him with regard to the IT&T case. John Mitchell faces possible perjury charges stemming from his sworn testimony that he never discussed the IT&T case with the President and that he was not involved with CREEP until he left his office as Attorney General. Messrs. Mitchell and Maurice Stans have been indicted for perjury in the Vesco case in New York. John Ehrlichman has been charged with perjury for his testimony before the grand jury in California. The testimony of Mr. Ehrlichman and his colleague Mr. Haldeman before the Senate Watergate Committee presents sufficient conflict with the sworn testimony of others to subject them to possible perjury indictments. Secretary of Agriculture Butz has been accused of perjury in connection with his wheat deal testimony before a Senate Subcommittee. Even without unraveling the truth about the White House tapes this brief recital already includes Mr. Nixon's two closest assistants, two other high White House aides, and at least three of his cabinet officers. As for Mr. Nixon, 18 U.S.C. § 1622 provides that "whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined not more than $2,000 or imprisoned for not more than five years, or both."

Thus, there is sufficient evidence to justify suspicion of the violation of at least thirty-eight criminal statutes by the President of the United States. Many of those statutes may have been violated more than once. This alone is sufficient to provide the basis for articles of impeachment under the most narrow definition of the term "impeachable offenses", but there are other activities of the President which bear scrutiny by the House of Representatives in a broader and politically realistic definition of what constitutes an impeachable offense.

Failure to Execute Laws

Richard Nixon, by his oath and by the duties imposed under the Constitution of the United States, is required faithfully to execute the laws passed by the Congress. There are repeated judicial decisions holding that Mr. Nixon has violated that duty. The most notable and publicized involve the impoundment of funds which, in practical terms, constitutes an arrogant refusal to execute the laws passed by the Congress and signed by the Chief Executive. The most recent decision came only last week when Federal District Judge Waddy held that it was illegal and unconstitutional to withhold $380,000,000 of appropriated funds from our educational institutions. Mr. Nixon was also held to have maintained Howard Phillips, the former OEO Director, in office illegally and was accused last week by Senator Proxmire of holding Acting Attorney General Bork in office illegally beyond the thirty-day statutory period. There is no question of Mr. Nixon's involvement here. Indeed, he publicly, proudly and frequently proclaims his defiance of the Constitution and the laws with each new impoundment. Moreover, any arguments that in the early days of his impoundment orgy Mr. Nixon thought he had the legal authority to take these actions can be given little credence in the wake of (at last count) twenty-five court decisions holding his actions to be illegal and unconstitutional.

BREACH OF PUBLIC TRUST

The third area of inquiry into impeachable offenses relates to the breach of public trust by the President. There are well defined analogies in the law of trusts concerning the duties of trustees and the grounds for their removal. Thus, for example, a trustee who converts the funds of a trust to his own use may be removed. Similarly, a trustee who lies to or defrauds the beneficiaries of the trust may be removed.

It is an essential element of the public trust a President holds that he tell the truth to the American people. A citizen who lies to the state commits a felony, the felony of perjury. It is, of course, not a specifically defined crime for the state to lie to its citizens. Indeed, there are generally acceptable areas of exaggeration and political comment within which public officials are usually given wide latitude in communicating

with the citizens they serve. Thus, politicians in election campaigns and Presidents in messages to the Congress to secure legislation often exaggerate the performance that can reasonably be expected in their promises of new worlds and new cures. To the extent that Mr. Nixon has engaged in this kind of political dialogue, he is, of course, not guilty of any impeachable offense.

But to the extent that he has gone far beyond the bounds of political exaggeration, the President should be subject to impeachment. Thus, the various statements about Cambodian bombing filed by Mr. Nixon's subordinates at his direction with authorized oversight committees of the Congress cleared for Top Secret Information should be examined carefully. The false statements of his Press Secretary Mr. Zeigler may also constitute grounds for impeachment; and the President's own statements to the American people should be subject to careful scrutiny by the House Judiciary Committee as well. For the standard of truth required by the Head of State in dealing with the citizens he serves should be at least as high as the standards applied to the citizens in dealing with the state that serves them.

Unlike the Senate Watergate Committee and the courts, the inquiry of the House is not directed largely or primarily at individual White House aides, corporate officials or cabinet officers. The House inquiry has one investigatory subject: the President of the United States. In this connection, the performance of the constitutional duty of the House to draft articles of impeachment carries with it clear and unequivocal authority to obtain documents and materials that under other circumstances might be subject to claims of executive privilege. Thus, for example, tax returns of the President which would otherwise be confidential must be scrutinized by the House Committee to determine whether the President has committed tax fraud, certainly an impeachable offense under any definition of that term.

The very issue involved in the impeachment proceedings is the extent of the President's personal knowledge and willful activity in connection with an array of crimes that may have been committed by his aides (some of whom have already confessed to criminal activity) and his cabinet officers. The duty of the House to investigate its Presidential subject carries as a necessary corollary the authority to examine the communications between the President and his staff. No squirreling of Presidential papers for personal protection or selected release by a library curator is justified on the grounds of executive privilege during this inquiry.

Impeachment procedings are not likely to be short and they will test the singularly impatient attention span of the American people. Andrew Johnson's impeachment proceedings took over one year and involved two Congresses. But to say that the country cannot stand impeachment proceedings over an extended period is to say that we cannot seek the truth, much less face it; that we cannot pointedly ask and candidly answer the question whether the President has committed any impeachable offenses. It is, sadly, to say that we are no longer strong enough to live under the most remarkable Constitution ever devised by man. It is the stuff of a weak and tired people who are so exhausted by democracy that they prefer to end their days in politically hedonistic amorality. It is the stuff of a tired generation that seeks to avoid one more trauma of their own even if that involves betrayal of their trust to succeeding generations. And this is the most important point.

For whether Lord Acton overstated his point, history clearly teaches us that, without exception, power creates its own need and desire for more power. Every White House aide can testify that each President takes the precedents of his predecessors in the exercise of power and moves to the next step. Some of us might have trouble even conjuring what the next step after Nixon might be, but there is one person who will figure it out if Mr. Nixon leaves office without reproach—a future President of the United States.

FOOTNOTES

[1] The specific statutory provisions are:

(1) 26 U.S.C. § 7201: "Any person who willfully attempts . . . to evade . . . any tax . . . shall . . . be guilty of a felony. . . ."

(2) 26 U.S.C. § 7203: "Any person required . . . to pay any . . . tax . . . who willfully fails to pay such . . . tax . . . shall . . . be guilty of a misdemeanor. . . ."

(3) 26 U.S.C. § 7206: "Any person who (1) . . . willfully makes and subscribes, any . . . statement . . . under the penalties of perjury, and which he does not believe to be true and correct . . . shall be guilty of a felony. . . ."

(4) 26 U.S.C. § 7207: "Any person who willfully delivers . . . any statement . . . known to him to be fraudulent . . . shall be fined . . . or imprisoned. . . ."

(5) 18 U.S.C. § 286: "Whoever enters into any . . . conspiracy to defraud the United States . . . by obtaining . . . payment . . . of any . . . fraudulent claim. . . ."

(6) 18 U.S.C. § 287: "Whoever . . . presents . . . any claim upon . . . the United States . . . knowing such claim is false. . . ."

(7) 18 U.S.C. § 641: "Whoever embezzles . . . or knowingly converts to his use . . . any . . . thing of value of the United States . . . shall be fined . . . or imprisoned. . . ."

[2] The specific statutory provisions are:

(1) 18 U.S.C. § 595: "Whoever, being a person employed in any administrative position by [any government], in connection with any activity which is financed in whole or in part by loans or grants made by the United States, . . . uses his official authority for the purpose of . . . affecting . . . the nomination or the election of any candidate for [any . . . federal elective office] shall be fined . . . or imprisoned. . . ."

(2) 18 U.S.C. § 600: "Whoever . . . promises any employment, contract . . . or other benefit, provided for . . . in whole or in part by any Act of Congress, or any special consideration in obtaining such benefit . . . as consideration . . . for any political activity . . . shall be fined . . . or imprisoned. . . ."

(3) 18 U.S.C. § 603: "Whoever, in any . . . building occupied in the discharge of official duties by any [government employee] . . . solicits or receives any contribution . . . for any political purpose, shall be fined . . . or imprisoned. . . ."

(4) 18 U.S.C. § 610: "It is unlawful for any . . . corporation whatever . . . to make a contribution . . . in connection with any election at which [a federal elected official is] to be voted for, or in connection with any primary election or political convention . . . or for any candidate, political committee or other person to accept . . . any [such] contribution. . . ."

(5) 18 U.S.C. § 611: "Whoever . . . (a) entering into any contract with the United States . . . makes . . . or promises . . . any . . . contribution, to any political party committee, or candidate . . . or . . . (b) knowingly solicits any such contribution from any such person . . . shall be fined . . . or imprisoned. . . ."

(6) 18 U.S.C. § 612: "Whoever willfully publishes or distributes . . . any . . . statement relating to . . . any person who has publicly declared his intention to seek [federal elective office] . . . which does not contain the names of the persons . . . responsible . . . shall be fined . . . or imprisoned. . . ."

(7) 18 U.S.C. § 653: "Whoever, being a dispensing officer of the United States . . . in any manner converts to his own use . . . any public money entrusted to him . . . is guilty of embezzlement . . . ."

(8) 18 U.S.C. § 1001: "Whoever [in any matter within the jurisdiction of the United States] . . . willfully falsifies, conceals or covers up . . . a material fact, or makes any false . . . statements, . . . or . . . uses any false . . . document knowing the same to [be false] . . . shall be fined . . . or imprisoned . . . ."

(9) 18 U.S.C. § 2511, which prohibits the interception and disclosure of wire or oral communications.

[3] The specific statutory provisions are:

(1) 18 U.S.C. § 201: "(b) Whoever . . . corruptly gives, offers or promises any thing of value to any public official . . . with intent—

(1) to influence any official act [or]

(c) Whoever, beng a public official . . . corruptly . . . solicits [or] accepts . . . anything of value . . . in return for:

(1) being influenced in his performance of any official act

Shall be fined . . . or imprisoned . . . ."

(2) 18 U.S.C. § 203 "(a) Whoever . . . receives . . . or . . . solicits . . . any compensation for any services . . .

(2) at a time when he is an officer . . . of the United States . . .

in relation to any proceeding . . . for a . . . contract [or]

(b) Whoever, knowingly . . . promises . . . any compensation for any such services . . .

Shall be fined . . . or imprisoned . . . ."

(3) 18 U.S.C. §§ 210 and 211, which deal with soliciting, offering or accepting anything of value "either as a political contribution, or for personal emolument," in consideration of any "promise" of "influence" in obtaining a federal job.

(4) 18 U.S.C. § 599: "Whoever, being a candidate, . . . promises . . . the appointment, or . . . his influence . . . for the appointment of any person to any public or private position . . . for the purpose of procuring his support . . . shall be fined . . . or imprisoned. . . ."

See also 18 U.S.C. §§ 600 (promises of anything provided by Act of Congress), 610 (corporate campaign contributions), and 611 (government contractor contributions), cited earlier.

[4] The specific statutory provisions are:

(1) 18 U.S.C. § 1503: "Whoever corruptly, or by threats . . . endeavors to influence . . . any witness . . . or any . . . juror, or officer . . . of any court of the United States . . . in the discharge of his duty . . . or corruptly or by threats or force . . . endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined . . . or imprisoned. . . ."

(2) 18 U.S.C. § 1505: "Whoever corruptly, or by threats or force . . . endeavors to influence, intimidate, or impede any witness . . . in connection with any inquiry or investigation being had by either House . . . or Whoever corruptly, or by threats or force, . . . endeavors to influence, obstruct, or impede . . . the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House . . .

Shall be fined . . . or imprisoned. . . ."

(3) 18 U.S.C. § 1510: "(a) Whoever willfully endeavors by means of bribery, misrepresentation, intimidation, or force or threats thereof to obstruct, delay, or prevent the communication of information relating to a violation of any criminal statute of the United States by any person to a criminal investigator;

* * * * *

Shall be fined . . . or imprisoned. . . ."

(4) 18 U.S.C. § 1018: "Whoever, being a public officer . . . authorized by any law . . . to . . . give a . . . writing, knowingly makes and delivers as true such a . . . writing, containing any statement which he knows to be false, in a case where the punishment thereof

is not elsewhere expressly provided by law, shall be fined . . . or imprisoned. . . ."

(See also 18 U.S.C. § 1001, the basic statute on false statements, above.)

(5) 18 U.S.C. § 1621: "Whoever, having taken an oath . . . that he will testify . . . truly . . . willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, . . . be fined . . . or imprisoned. . . ."

(6) 18 U.S.C. § 1622: "Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined . . . or imprisoned. . . ."

(7) 18 U.S.C. § 1623: "Whoever under oath in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration . . . shall be fined . . . or imprisoned. . . ."

(c) An indictment or information for violation of this section alleging that, in any proceedings before or ancillary to any court or grand jury of the United States, the defendant under oath has knowingly made two or more declarations, which are inconsistent to the degree that one of them is necessarily false, need not specify which declaration is false if—

(1) each declaration was material to the point in question, and

(2) each declaration was made within the period of the statute of limitations for the offense charged under this section

In any prosecution under this section, the falsity of a declaration set forth in the indictment or information shall be established sufficient for conviction by proof that the defendant while under oath made irreconcilably contradictory declarations material to the point in question in any proceeding before or ancillary to any court or grand jury. It shall be a defense to an indictment or information made pursuant to the first sentence of this subsection that the defendant at the time he made each declaration believed the declaration was true."

(8) 18 U.S.C. § 2071: "(a) Whoever willfully and unlawfully conceals, removes or destroys . . . any . . . thing, filed or deposited . . . in any public office, . . . shall be fined . . . or imprisoned. . . ."

(b) Whoever, having the custody of any such . . . thing, willfully and unlawfully conceals, removes . . . or destroys the same, shall be fined . . . or imprisoned. . . ."

(9) 18 U.S.C. § 2232: "Whoever, before, during or after seizure of any property by any person authorized to make searches and seizures, in order to prevent the seizure or securing of any goods . . . by such person, . . . destroys, or removes the same, shall be fined . . . or imprisoned. . . ."

LATVIAN INDEPENDENCE

Mr. BEALL. Mr. President, last month free men around the world marked the 55th anniversary of Latvian independence. I join with many of my colleagues in the Congress, and many Americans in all walks of life, in extending my congratulations to all my fellow countrymen of Latvian heritage on this milestone, and renew my hope that someday the priceless gift of self-determination can be restored to the people of Latvia.

As we move toward more peaceful relationships with the Soviet Union, let us not forget the plight of all the citizens of the world who live daily under the heavy burdens of oppression. Thirty-three years ago, the light of liberty was extinguished in Latvia; but the hopes of its people for freedom were not dashed in the slightest. As the symbol of human freedom and dignity to all the world, this Nation cannot fail to remember the needs and the fervent wishes of the peoples of the Baltic States. We must mark this anniversary of Latvian independence with a pledge of continuing support for the goals of equal rights and self-determination for Latvia.

CONCLUSION OF MORNING BUSINESS

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the following House bills in which it requests the concurrence of the Senate:

H.R. 1466. An act for the relief of Luigi Santaniello;

H.R. 4445. An act for the relief of Diana L. Ortiz;

H.R. 6074. An act to amend the act of May 20, 1964, entitled "An act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States, and by persons in charge of such vessels"; and

H.R. 8529. An act to implement the shrimp fishing agreement with Brazil.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 11) with amendments in which it requests the concurrence of the Senate.

The message further announced that the House had passed the bill (S. 1747) to amend the International Travel Act of 1961 with respect to authorizations of appropriations, with amendments in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following House bills were severally read twice by their titles and referred as indicated:

H.R. 1466. An act for the relief of Luigi Santaniello; and

H.R. 4445. An act for the relief of Diana L. Ortiz; to the Committee on the Judiciary.

H.R 6074 An act to amend the act of May 20, 1964, entitled "An act to prohibit fishing in the territorial waters of the United States and in certain other areas by vessels other than vessels of the United States, and by persons in charge of such vessels"; and

H.R. 8529. An act to implement the shrimp fishing agreement with Brazil; to the Committee on Commerce.

FOREIGN AID ASSISTANCE ACT OF 1973—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the conference report on S. 1443, which the clerk will state by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1443) to authorize the furnishing of defense articles and services to foreign countries and international organizations having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of all the conferees.

The Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 27, 1973, at page 38010.)

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Are we operating under controlled time?

The PRESIDING OFFICER. Yes. Time for debate on this report is limited to 2 hours, to be equally divided between and controlled by the manager of the conference report, the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Vermont (Mr. AIKEN), with any time on any motion or appeal relating to the conference report to be limited to 20 minutes.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum, with the time not to be taken out of either side.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

How much time does the Senator from Minnesota yield himself?

Mr. HUMPHREY. Mr. President, I yield myself 25 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 25 minutes.

Mr. HUMPHREY. Mr. President, we are now considering the conference report on the foreign assistance authorization bill. This conference report, in my judgment, represents a fair and reasonable compromise between the Senate's two foreign aid bills—one of military assistance and one of foreign economic assistance, and the combination package passed by the House of Representatives. It does not contain all the provisions many of us would like to have in a foreign aid bill. But it does not contain all that the House wanted either. It is a product of a genuine compromise, where both sides met in the middle on many issues that each felt strongly about.

It was a tough conference, with hard bargaining over 11 meetings needed to settle a total of 175 differences between the Senate and the House positions. Many of these differences, however, were attributable to the fact that the Senate bill completely rewrote the statutory framework for the foreign military grant aid and sales programs, whereas the House bill, following the traditional approach, merely extended existing law.

A basic question that the conferees had to settle was whether to have one or two bills. Although it was agreed this year to report out a single bill, combining economic and military assistance, the House conferees assured us that this is the last time the two types of assistance will be joined together.

Let me first discuss the amounts involved in the agreement. The conference report authorizes a total of $2,392,234,000 for this fiscal year, a reduction of $395,266,000, or 15 percent, from the executive branch request and a reduction of $209,400,000 from the amount appropriated for these programs under the continuing resolution for the last fiscal year.

I would like to make it clear in this RECORD that we did make a 15-percent cut in the administration's request. And we did make a cut of almost $210 million in the authorization below what was appropriated under the continuing resolution for the last fiscal year. All of us in this body know that appropriations are generally below authorizations.

So in this particular bill, we have a saving or an economy measure of $209,400,000 below the amount appropriated for these same programs under the continuing resolution for the last fiscal year.

For economic assistance, the conference agreed to an authorization of $1,429,734,000 for the 1974 fiscal year, splitting the difference between the Senate and House figures. For fiscal year 1975 the report authorizes a total of $921,934,000. The authorization is substantially less than that for the current fiscal year since neither the Senate nor the House bill authorized economic aid to Indochina for the 1975 fiscal year.

Both bills authorized funds for military assistance and credit sales for fiscal year 1974 only. The conference agreement for military assistance and sales is $962,500,000, which represents an exact split between the Senate and House amounts.

The conferees were scrupulous in splitting the difference between funding levels on practically every major authorization category, ranging from food and nutrition programs to military credit sales. On the economic side of the bill, the difference between the conference split and a perfect mathematical split was only $15 million—less than one-half of 1 percent. And, as I have said before, on the military side that difference was absolutely zero dollars.

I ask unanimous consent to have printed in the RECORD following my remarks a comparative table of the programs and amounts authorized by the conference agreement, and a fact sheet.

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

(See exhibit 1.)

Mr. HUMPHREY. A number of policy amendments were added on the Senate floor to both the economic and the military aid bills. Rather than take up the Senate's time by discussing the action taken on each in the conference, I will be glad to respond to inquiries from members who are interested in particular provisions.

ECONOMIC ASSISTANCE

There were few substantive differences between the House and the Senate on authorizations for economic aid. Both bodies had approved sweeping changes in economic aid policy, designed to insure that American assistance gets down to the grassroots level. There was no difference between the two houses over basic policy initiatives, only in several details for implementation.

One difference was over the use of loan repayments. The Senate bill, through the Church amendment, prohibited use of loan repayments for further lending in the aid program. But the House bill expanded the authority to use loan repayments. The problem was compromised by allowing one-half of the scheduled reflows—that is, scheduled loan repayments—to be used for further lending in fiscal years 1974 and 1975, and the basic authority will then be repealed. I make note of the fact that it seems to me that is about as fair a compromise as you could get. While the House had provided full authority for the use of loan reflows, the Senate had canceled that authority; so what was done in the conference report was to allow one-half of the scheduled reflows for the years 1974 and 1975, and then the basic authority will be terminated.

Both the economic and military bills approved by the Senate contained provisions to assure that Congress had proper access to executive branch information concerning the foreign aid program. Recently the President vetoed a U.S. Information Agency authorization bill because it contained a comparable provision and, in his veto message, stated his opposition to the Senate provisions contained in the foreign aid bills. It was clear that the Senate's foreign aid bills faced a veto if these provisions were kept in. In the conference no satisfactory substitute language could be found which both protected the prerogatives of the Congress and would be acceptable to the President. In view of this, the Senate reluctantly receded on the issue.

I hope that Congress will soon pass general legislation dealing with the access-to-information problem.

It is my understanding that such legislation is now in committee and will be brought before Congress for affirmative action. If not, the Committee on Foreign Relations may again find it necessary to try to come up with a legislative remedy for its own access problem.

There has been widespread interest in the Helms amendment, which prohibited the use of foreign aid funds for abortions. The compromise agreed to is, I think, a reasonable solution. The conference modified the provision to retain a prohibition on use of foreign aid funds for abortions, but at the same time will not unduly impair carrying out other aspects of the population-planning program.

MILITARY ASSISTANCE AND SALES

By way of background on the military portions of the conference report, I point out that the Senate bill, as reported from the Foreign Relations Committee, was primarily designed to phase out the military grant assistance program. But by a narrow margin the Senate rejected that approach. In conference, the Senate's rewrite of the military aid and sales statutes was dropped since, with the defeat of the basic policy initiative, there was no longer any justification for a complete revision of existing law. The bill passed by the Senate, however, did make a number of other significant policy changes, and a number of these have been retained in the conference agreement.

The House insisted on retaining the present system under which Congress authorizes and appropriates a lump sum for military aid which is then allocated by the President to individual countries. However, in return the statutory restriction on the number of countries eligible to receive grant aid was reduced from 40 to 31.

The conferees agreed to a provision which will allow the President to draw on Department of Defense stocks to provide additional ammunition to Cambodia, which he has said is needed—and a request, of course, has been made to Congress for it—thus taking this extraneous issue out of the pending request for military aid to Israel. This agreement in effect leaves a general purpose fiscal year 1974 drawdown authority of only $50 million—$50 million above the Senate's zero, but $250 million below the House's $300 million.

The conference also agreed to return funding of military aid to Laos to the regular military aid program beginning with the next fiscal year, but funding of military aid for Vietnam was left in the Defense Department budget for the time being.

The conference agreed to a number of Senate provisions which will put further restrictions on the military aid and sales programs, such as curtailing the authority for giving excess defense articles to foreign countries. All in all, the agreement provides for tighter, more effective control of the military aid and sales program at less cost to the American taxpayer.

It is my judgment that that is what we in the Senate were trying to obtain in our military assistance bill as passed by the Senate.

I point out that the military programs are authorized only for 1 year and this entire program will be studied again in detail next year by the Foreign Relations Committee.

Mr. President, I am fully aware that the foreign aid bill is one of the most controversial pieces of legislation to come before Congress for action. The Foreign Relations Committee has worked long and hard this year to revise both the economic and military aid programs to gear them to the realities of the national interest today and for the future, and to break away from the policies of the past. This bill still reflects a significant portion of that work, especially on the economic aid side.

Mr. President, if I had been writing this bill all by myself, I would have put in lower figures on the military side. And, by the way, I would have put in higher figures for development assist-

ance. But I do not think the figures are at all out of line, given the two versions, House and Senate, that the conferees had to work with.

Now, I suppose the Senate conferees could have insisted on all the provisions in the Senate bill, and we would have completely upheld the Senate's position—and had another deadlocked conference, the way we did last year. But we did not want to end up with a deadlocked conference; we wanted to come to an agreement and get a bill—a new bill—out.

Mr. President, I do not think it is wise policy to live by what we call continuing resolutions. Those continuing resolutions do not take into account changes that may be taking place worldwide, and changes in our official policy. Therefore, we wanted to come to an agreement, and do it without dragging our feet about it; the fiscal year is getting to be half over, and the Appropriations Committees are waiting for this bill to be passed before they can get to work to provide the fund. And may I say once again, of course, these are authorization figures, and all of this battle about how much money will be allocated for different programs to effectuate certain policies will again have to be battled out before the Appropriations Committees of the House of Representatives and the Senate, and then again subsequently on the floor of each body.

Last year, there was no authorization bill at all, because of a deadlock in the authorization conference. As a result the programs have been funded for almost a year and a half now on the basis of continuing resolutions. Before that, the appropriation bill was passed so late, again as a result of a deadlock in the authorization conference, that the programs operated for nearly three-quarters of the year on continuing resolutions and only the last quarter on regular appropriations.

The conferees had, and we all still have, a clear duty to enact legislation in the area of foreign aid and not let the programs limp along by default for another year on continuing resolutions. So the conferees did not sit back and say, "You take our bill or there will not be any bill at all." Instead, in the spirit of conference, we compromised our differences, because that is the name of the game in conference. You get the best deal you can, but if you want a piece of legislation, you compromise.

We have to make adjustments and compromises. As I noted earlier in my remarks, it seems to me that we have done fairly well when it came to the compromises because on the economic side of the bill, the difference between the conference split and a perfect mathematical split was $15 million or about one-half of 1 percent. On the military side the difference was absolutely zero. So on the basis of fair play between the two Houses, we did split the difference, as we say; yet we did not abandon the policy positions which the respective Houses had sought to maintain.

But let me tell you also, Mr. President, that we did not lose our shirts, as some have alleged about the bill. Not only did we get a fair deal on money figures, but there are a lot of substantive provisions in the bill that the Senate originated. For example: amendments on the world food problem, on the Asian Development Bank, on expropriation policy, on the use of cooperatives, on integrating women into national economics, on host country contributions to projects, on notification to Congress of licensing of munitions exports, on financing military operations in or over Indochina, or on denying aid to countries with political prisoners, and on aid to Chile. On all items which the Senate itself took the initiative on, and most were items taken up right here on the Senate floor, they were not tossed out or compromised away. They were kept in the legislation.

Of special importance, all public safety activities overseas will be ended. In other words, police training, the major item of discussion in the Senate. There will be no more training, advising, or providing of equipment by AID overseas and the public safety advisers stationed overseas will be returned home.

The Senate also wanted us to deny AID the automatic use of reflows. We have done that, too, but agreed to let AID use half of these reflows for 2 more years as a phaseout period, so that they can adjust their programs without too much abrupt dislocation.

We did not get everything we wanted. Neither did the House. But we got a bill out. It is a good bill, not a bad one—in fact, it is the best foreign aid bill we have had in a long time, because it redirects our economic aid program to make it more effective in dealing with the basic human problems of the poor.

I realize that there are Members of the Senate who will not vote for the measure before us today. As I know—we all know—this is a controversial matter. But let me remind my colleagues that we live in a world where the most urgent of our domestic problems cannot be solved by domestic actions alone.

More and more we must turn to other nations or to international systems or institutions for cooperation in solving what used to be purely internal problems. The stability we need for the orderly functioning of the world depends as much on the cooperation between rich and poor nations as it does on the mutual restraint of the nuclear powers. In fact, the détente we seek will be useless without an underpinning of growing stability in the developing world. That stability is dependent on the 100 poor nations believing that there are sufficient benefits from cooperating with us that they want vital international arrangements to work.

Mr. President, I can think of no time more important than now for the United States to have a program of working with some of the countries in Africa and Asia. These parts of the world are areas in which there are vital natural resources that this Nation of ours will need, areas of the world which are having a great effect on international and national security and international diplomatic policy. We need to have good working relationships with them. The foreign aid program provides us with one of the tools that we need.

The notion that we can somehow refuse to help the people of these nations to solve their most urgent problems and then expect their economic and political cooperation in our own enrichment is sheer folly.

Finally, Mr. President, I want to state that I reject the premise that by helping others we postpone providing for the urgent needs of our own people. This is a two bit, phony argument. Neither I, nor any Member of Congress, would propose or support a program which places the needs of others before our commitment to the American people.

We have the resources to continue a modest and sensible program of economic assistance to the world's poor and still help those Americans in need. It is not merely a question of money. It is a question of will.

I might add that the vast majority of all the funds authorized in this bill, when expended, will be expended right here in the United States. It may very well be, as we look to the coming months, in light of the commentary of the economists that there will be a rising tide of joblessness, that we may be facing a recession, that a program such as this that provides for the production of goods and services may very well be a stimulant for the economy. It is not all playing Santa Claus, of being a good guy. Foreign aid is a matter of national self-interest as well as mutual cooperation.

We need the cooperation of other people. We need, for example, today, the cooperation of a country like Nigeria, which will benefit under this bill. It is one of the major oil exporting nations to the United States which has not put an embargo on us. We will need their help. We will need the help of other countries. This country is short of many vital materials necessary for its existence. We will need friends, not only goods and commodities.

I think that we would be well to remember what Adlai Stevenson said concerning America's role in the world:

> You can't turn out almost two-thirds of the entire world's production and not be concerned with customers. You can't be the richest man in town and not be concerned with insurance. And you can't be happy and free surrounded by misery and slavery.

Those words, spoken 26 years ago, are, in the main, still valid today.

Mr. President, it is because of my feeling about the philosophy of Adlai Stevenson, and what I believe over the long run would have been the benefits of a foreign aid program, that I urge adoption of this conference report.

Might I also add, Mr. President, for the interest of some who have shown particular interest in certain parts of the world, that in this bill there is, for the State of Israel alone, which is in the forefront of much of our thinking today because of the crisis in the Middle East, $50 million in supporting assistance,

which this little country so desperately needs; $300 million are earmarked on foreign military sales; $25 million in housing guarantees; and between $5 million and $10 million in American schools and hospitals abroad.

This bill also provides some assistance for working out a negotiated settlement in the Middle East. We are going to have to do something with the Arab States. We cannot look on them as mortal enemies. We are going to have to have some bargaining power. There needs to be a viable and independent Jordan. The King of Jordan and the State of Jordan have been basically friendly to the United States. We have been generous with that country. We need to continue to be generous. In other words, the foreign assistance bill, economic and military, is not designed to show that we are just nice people. It is designed to be part of our national security. It is designed to be of mutual benefit to those countries that receive the assistance and to our country that provides it.

May I say to the business and economic community that it is designed to help maintain the economy. That is why the American labor movement supports foreign assistance and vigorously supports it—the organized labor movement of this country. That is why the business communities of America support foreign assistance, because they know, out of practice and out of realistic economics, what it means to the economic structure of the United States.

Mr. President, I repeat, this bill represents a substantial reduction in authorizations over the appropriations of last year, almost $210 million less than was appropriated last year.

This bill represents a 15-percent reduction in the administration request. Therefore, we have practiced what I think is prudent economy.

The bill, furthermore, represents an effort on the part of the two Houses to come to grips with the modern needs of foreign economic assistance. The emphasis upon food production, population, and family planning, health and education, economic development for the poorest of the poor countries—that is what we have here. Almost all this money, more than 80 percent of the money in this bill, will be expended right here in the United States to buy goods produced by American workers in American factories, to buy services produced by the American people to help other people in other parts of the world, so that they, in turn, might be of some help to us. Surely, the times in which we live indicate the necessity of that kind of cooperation.

Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

EXHIBIT 1

FOREIGN ASSISTANCE AUTHORIZATION—FISCAL YEAR 1974

[In millions of dollars]

	Executive request	House [1]	Senate [2]	Conference agreement [3]
Economic assistance:				
Indochina postwar reconstruction for South Vietnam, Laos, and Cambodia	632.0	632.0	376.0	504.000
International organizations	124.8	127.8	127.822	427.800
Indus Basin grants	15.0	15.0	14.0	14.500
Old development loan/grant categories:				
Loans (including Alliance for Progress)	351.4			
Grants (including Alliance for Progress)	251.8			
Population	(116.0)	(4)	(4)	(4)
New development assistance categories: [5]				
Food and nutrition		300.0	282.0	291.000
Population planning and health		150.0	141.0	145.000
Education and human resources		90.0	94.0	90.000
Selected development problems		60.0	47.0	53.000
Selected countries and organizations		50.0	28.0	39.000
Miscellaneous categories:				
American schools and hospitals abroad	10.0	[6] 20.0	[6] 19.0	[6] 19.000
International narcotics control program	42.5	50.0	40.0	42.500
Contingency fund	30.0	30.0	23.5	30.000
Partners of the Alliance		.968	.9	.934
Administrative expenses (AID)	53.1	53.1	24.0	45.000
Arab refugees		2.0		2.000
African famine relief		[7] 30.0		[7] 25.000
Albert Schweitzer Hospital			1.0	1.000
Total economic assistance	1,510.6	1,610.868	1,218.222	1,429.734
Military assistance:				
Grant military assistance	652.0	550.0	420.0	[8] 512.500
Security supporting assistance (outside Indochina)	100.0	125.0	125.0	[9] 125.0
Military credit sales	525.0	450.0	200.0	[10] 325.0
Military training	(8)	30.0	25.0	(8)
Total military assistance	1,277.0	1,155.0	770.0	962.5
Total economic and military assistance	2,787.6	2,765.868	1,988.222	2,392.234

[1] Economic aid authorizations are for fiscal year 1975 also except for African famine relief, Indochina assistance, and international organizations (open ended authorization for fiscal year 1975).

[2] The same amounts are authorized for fiscal year 1975 for all economic aid programs with the exception of: (1) the international narcotics control program for which $30,500,000 is authorized for fiscal year 1975, and (2) American schools and hospitals abroad, the Albert Schweitzer Hospital, and Indochina postwar reconstruction, for which funds are authorized only for fiscal year 1974. The amounts for military assistance are for fiscal year 1974 only.

[3] The same amounts are authorized for fiscal year 1975 for all economic aid programs with the exception of the Albert Schweitzer Hospital, Indochina postwar reconstruction assistance, and African famine relief. For fiscal year 1975, the amount authorized for international organizations is $150,000,000. The amounts authorized for military assistance are for fiscal year 1974 only.

[4] A separate appropriation of $116,000,000 was requested by the executive branch. The Senate earmarked $125,000,000 out of economic assistance funds for population programs in fiscal year 1974 and $150,000,000 in fiscal year 1975. The House earmarked $125,000,000 for each of fiscal years 1974 and 1975. The conferees approved $125,000,000 for fiscal year 1974 and $130,000,000 for fiscal year 1975.

[5] Not more than 50 percent of the amounts appropriated for the categories may be used for grants under the Senate bill. In addition, repayments on outstanding foreign assistance loans would be available for new loans in fiscal year 1974 under the House bill.

[6] In addition, excess foreign currencies are authorized ($6,500,000 in the Senate bill; $7,000,000 in the House bill). The bill authorizes $6,500,000 in excess foreign currencies for each of the fiscal years 1974 and 1975. The bill authorizes $6,500,000 in excess foreign currencies for each of the fiscal years 1974 and 1975.

[7] To remain available until expended.

[8] $27,500,000 of this approved for military training. The Executive requested an open end authorization for this purpose. The Executive appropriations request was $33,000,000.

[9] $50,000,000 earmarked for Israel.

[10] A ceiling of $730,000,000 established, of which $300,000,000 earmarked for Israel.

FOREIGN AID CONFERENCE REPORT FACT SHEET

Senate and House Split Difference on New Authorizations:

	Senate bill	House amendment	Conference split
Economic assistance (less for fiscal year 1975)	$1,218,222,000	$1,610,868,000	$1,429,734,000
Military assistance (fiscal year 1974 only)	770,000,000	1,155,000,000	962,500,000
Total assistance (table attached)	1,988,222,000	2,765,868,000	2,392,234,000

Conferees Compromise in Redirecting Economic Assistance Policy:

1. Conference bill places primary emphasis on most common and most pervasive problems in poor countries.

a. Food and Nutrition—$291 million (split);

b. Population Planning and Health—$145 million (split);

c. Education and Human Resource Development—$90 million (lower).

2. Conference bill requires that projects be selected so as to most directly benefit the poorer majority of the people.

3. Conference bill requires improved coordination of all U.S. activities that bear on development, including trade and financial policy as well as development aid.

4. Senate policy provision accepted—requires increased concentration on sharing American technical expertise.

5. House policy provision accepted—requires that programs reflect the role of U.S. private investment.

6. House receded from policy urging continuation of bilateral aid and Senate receded from policy urging shift to multilateral aid.

7. House receded from insistence on changing name of Act and Agency.

Conferees Agree to Establish New Program Policy for Economic Assistance:

1. Senate policy provision accepted—requires recipient country to pay 25 percent of program costs (Chiles/Case).

2. Senate policy provision accepted—limits grant projects to three years (Chiles).

3. Senate earmarking provision accepted—requires use of at least $20 million through cooperatives (Humphrey).

4. Senate policy provision accepted—encourages the integration of women into the national economies of developing countries (Percy).

5. Senate policy provision accepted—limits use of Contingency Fund primarily for disaster relief (Eagleton).

6. House policy provision accepted—requires President to seek the establishment of independent audit units within the U.N. and multilateral assistance organizations.

7. House authorizing provision accepted—permits the use of program funds to pay the shipping differential between U.S. and foreign flag rates.

8. Senate receded from prohibition against "follow-on" aid projects (Chiles).

9. House receded from authorization for an earmark of $2 million for use for developed countries.

10. Senate receded from 50 percent grant ceiling (Chiles), but an appropriate dollar limit is anticipated in annual appropriations legislation.

11. House receded from policy provision permitting waiver of prohibition on assistance to countries which ship to North Vietnam.

12. Senate earmarking provision for $150 million for population programs for FY 1975 (Taft) reduced to $130 million to reflect lower authorization for all health programs ($145 million).

Conferees Compromise on Use of Loan Repayments:

1. Conferees split the difference on loan repayments for two years—permit one-half to be used for new loans and require balance to revert to Treasury.

2. Senate receded from insistence on immediate end to use of repayment for new loan (Church).

3. House receded from insistence on use of all repayments for new loans.

4. Senate receded from limit on use of repayments to one-third for any functional sector (Humphrey), having won total limit of one-half for all five sectors.

Conferees Agree to Mandate Specific Prohibitions on Aid:

1. Senate prohibition modified and accepted—prohibits use of funds for police training and related programs administered use of funds for police training and related programs administered by A.I.D. but permits operation of International Police Academy in Washington and permits phase-out of existing private contracts.

2. Senate prohibition modified and accepted—prohibits the use of funds for the performance of abortions or to motivate or coerce any person to practice abortion.

3. House prohibition accepted—no aid to North Vietnam.

4. Senate prohibition accepted—no funds for U.S. troops in or over Cambodia, Laos or South Vietnam (McGovern).

5. Senate prohibition accepted—no funds to support third country combat troops in Southeast Asia (Case).

6. Senate prohibition accepted—no foreign currency generated by assistance sales may be used for military purposes.

7. Senate prohibition accepted—no assistance to countries with U.S.-financed military bases unless the country allows access to those bases by U.S. media.

8. Senate receded from prohibition on assistance to countries unless President affirmatively determines country is taking specific steps to control narcotics (Hartke).

Conferees Accept Senate Provision on Expropriation Policy:

1. Senate provision accepted—permits national interest waiver of the FAA provision which requires semi-automatic termination of assistance to countries expropriating any property beneficially-owned by American citizens.

2. House receded from trigger-type suspension provision for any expropriation, regardless of national interest.

Conferees Compromise to Assure Reasonable Private Investment Continuation:

1. Conferees accept lower dollar ceiling of $305 million (House) and shorter time extension, through FY 1975 (Senate), for housing investment guaranty program.

2. Conferees split difference on continuation of OPIC and permit extension to December 31, 1974, with a thorough review expected.

3. Conferees split difference and authorize $945,000 for National Association of Partners of the Alliance.

Conferees Require New Reports to Oversee Foreign Aid:

1. House report accepted—annual report on debt burden of less developed countries.

2. Senate report accepted—annual foreign assistance report including all significant defense articles on U.S. munitions list.

3. House report accepted—semi-annual report on status of all obligations to U.S. and on all international financial transactions in which U.S. is a party.

4. Senate report accepted—evaluation of the American Schools and Hospitals Abroad Program, including recommendations on which agency should administer program.

5. House report accepted—quarterly report on narcotics programs and obligation and semi-annual report on activities and operations.

6. Senate receded on provision requiring access to all internal working documents in foreign policy agencies but retained existing provision requiring documents on foreign aid programs or certification of reasons for non-disclosure.

7. House receded from insistence on annual report on NATO costs.

Conferees Reject All Open-Ended Authorizations:

1. House receded from insistence on permanent open-ended authorization for Contingency Fund for extraordinary disaster relief.

2. House receded from open-ended authorization for international organizations for FY 1975.

Conferees Compromise on Indochina Postwar Reconstruction:

1. Conferees split difference on funding level down the middle and authorize $504 million.

2. House receded from statement of policy and Senate receded from amended policy statement (Kennedy).

3. Senate provision accepted—earmarks $712,000 for Plastic Surgery Center in Saigon (Chiles).

4. Senate receded from earmarking of $10 million for International Red Cross for Indochina (Kennedy), upon understanding that $2 millon is programed for such expenditures.

5. House provision accepted—prohibits use of local currency generations and dollar assistance for support of police, prison construction or administration within South Vietnam.

Conferees Compromise Senate Proposed Policy Amendments:

1. Conferees accepted an amendment expressing the sense of Congress that assistance should be denied to any country which imprisons its citizens for political purposes (Abourezk, as accepted by Senate Foreign Relations Committee).

2. Conferees rejected an amendment expressing the sense of Congress that no assistance should be provided to any party to the Indochina peace agreements which does not comply with the agreements (Pell).

3. Conferees accepted an amendment expressing the sense of Congress that the Pathet Lao and the Royal Laotian Government be required to account for POWs and MIAs (Nelson).

4. Conferees rejected an amendment prohibiting the U.S. from settling the India debt for rupees (Byrd of Va.) but required prior Congressional consultation in the Statement of Managers.

5. Conferees accepted, as modified, an amendment expressing concern for world food shortages and directing the President to take specific steps to help alleviate the problem (Humphrey/Javits/Dole).

6. Conferees rejected an amendment authorizing the use of $6 million in FY 1974 appropriations for use to support the repatriation of the people of Bangladesh and Pakistan (Javits/Muskie/Kennedy) but noted in the Statement of Managers that such authority exists.

7. Conferees accepted, as modified, an amendment expressing the sense of Congress that the President should request the Government of Chile to protect human rights in Chile (Kennedy).

8. Conferees rejected an amendment expressing the sense of the Senate to urge Austria to take action to facilitate the travel of Soviet refugees (Mondale).

9. Conferees accepted an amendment authorizing $1 million for the Albert Schweitzer Hospital in Gabon (Brooks).

10. Conferees rejected an amendment expressing the sense of Congress that the Department of State establish a Bureau for Humanitarian and Social Services (Kennedy).

Conferees Continue Military Assistance Program at Reduced Levels and With Important New Policy Restrictions:

1. The Conference retained the existing statutory framework for the Military Assistance Program instead of adopting the Senate's rewrite. This avoided the need for numerous technical and administrative amendments.

2. The Senate's requirement that excess defense articles be furnished in lieu of new items wherever practicable was retained.

3. The Senate prohibition on the loan of defense articles was eliminated but existing authority was restricted and the law amended to require that the articles loaned are to be charged against appropriations.

4. The authorization of appropriations for military assistance and training was compromised on a 50–50 basis, the Senate limitation of assistance (other than excess) to eight countries was dropped but the number of countries eligible to receive MAP was reduced from 40 to 31. The Senate open-ended authorization for South Vietnam and Laos was dropped.

5. The Senate requirement that local currency proceeds from sales by recipients of used equipment be available for U.S. uses was retained.

6. The House provision extending authority to draw down from existing defense stocks with reimbursement from MAP funds was accepted but the ceiling was reduced from $300 to $250 million and a conference statement was added that up to $200 million of this authority be used for Cambodia emergency needs.

7. Ceilings on military assistance and sales to Latin America and Africa were changed eliminating cash sales from their computation but the President's existing authority to raise the ceilings by 50 percent was eliminated as proposed in the Senate bill.

8. The Senate provision requiring transfers of authorizations of military assistance for Laos and South Vietnam from DOD to the Foreign Assistance and Military Sales Acts as of last June 30 was modified to apply only to Laos and to take effect at the end of this fiscal year. Action on South Vietnam was deferred.

9. The House repeal of the requirement for

special foreign currency accounts was accepted.

10. The Senate authorization of Security Supporting Assistance was retained except that the earmarking of $65 million for Jordan was eliminated.

11. The Senate provision requiring an interruption of military assistance to Greece (Pell) was rejected, leaving intact the existing ceiling on such assistance.

12. The new Senate provision requires public identification of military assistance recipients and the amounts of assistance was replaced with language in the Conference Report which construes existing law to require public disclosure except during periods of critical international developments.

13. The Senate requirement that articles not be eligible for donation unless unneeded by any DOD component was included.

14. The Senate requirement that there be an annual report of all exports of significant defense articles was retained. The House requirement of a report on US NATO costs was eliminated. The Senate requirement that Congress be notified of licenses issued for export of items on the munitions list of $100,000 or more was retained.

15. The Conference retained, with technical changes, a Senate prohibition on furnishing sophisticated jets or other weapons to countries transferring defense articles on breach of their agreements with the U.S.

16. The Senate provision (Tunney) prohibiting assistance to Portugal upon a Presidential finding that any such assistance was used to support Portuguese actions in its African territories was amended to apply to any non-African country, to require a prompt report, but leave suspension for later consideration.

17. The Senate provision amending Section 104(c) of PL-480 to require specific Congressional authorization for agreements permitting PL-480 sales proceeds to be used for common defense was replaced with a Conference statement to the same effect in order to avoid germaneness problems on the floor of the House.

Conferees Compromise Major Issues on Foreign Military Sales Act:

1. Authorizations for appropriations and ceilings on sales amounts were compromised 50-50 with the House; the ceiling is set at $730 million with $300 million earmarked for Israel.

2. The Senate provision requiring purchasers of defense articles for cash to pay related administrative costs was replaced with conference language requiring that a charge be made for overhead expenses where feasible; the Senate provision eliminating the President's authority to sell defense articles on a fixed price basis was retained. The prohibition on sales to developed countries if commercial channels are available was eliminated.

3. The House provision softening repayment terms by extending the maximum repayment period from 10 to 20 years was deleted.

4. The Senate provision allowing sales repayable in local currencies to countries now receiving grant assistance was eliminated. The Senate provision requiring a reduction in sales, credit sales and guarantees to the maximum extent practicable was retained.

5. House technical amendments with respect to the guarantee authority were compromised with the Senate requiring deletion of the authority to issue guarantees to persons doing business outside the U.S.

6. The Senate provision authorizing either House to veto any sales agreement in excess of $25 million by adoption of a resolution disapproving the sale was not accepted.

7. The Senate provision directing the President to convene an international conference of arms supplies to negotiate ceilings on arms transfers was replaced with a Conference statement that the President should make every effort to negotiate with other powers for workable controls over arms transfers.

OTHER MATTERS

1. Excess Defense Articles—The House continued authority to furnish excess defense articles without changing the MAP appropriation up to the existing $185 million ceiling. The Senate eliminated this authority. The Conference lowers the ceiling to $150 million and requires charges against MAP appropriations except for articles generated outside the U.S.

2. The Senate provision for further control over loans or sales of military vessels was not accepted although the loan authority for MAP was restricted, as noted above.

Mr. HELMS. Mr. President, will the distinguished Senator from Minnesota yield for a question?

Mr. HUMPHREY. I yield.

Mr. HELMS. The new language of the antiabortion amendment has been previously released to the public by the House Foreign Affairs Committee because of the widespread interest in the topic. Some of my constituents expressed concern because the language of the amendment as it passed the Senate was modified by the conference. I presume that the distinguished Senator from Minnesota has also had constituent inquiries on the matter. Can the Senator give assurances to the Senate that, in his opinion, the language adopted by the conferees is a tough amendment and one that will effectively stop the performance of abortions as a method of family planning with funding authorized in this bill?

Mr. HUMPHREY. That is correct. It does not, however, interfere with what we call family planning services and the research that goes into family planning.

Mr. HELMS. I understand, and I thank the Senator.

Mr. CASE. Mr. President, as a member of the House-Senate conference committee on S. 1773, the Foreign Assistance Act of 1973, I would like to comment briefly on section 114 Limiting Use of Funds for Abortions.

The conferees intended in this section to prohibit the use of AID funds to pay special fees or incentives for the performance of abortion. Such payments have been considered in some countries to encourage family planning but the conference committee wished to make clear that it did not want U.S. bilateral assistance funds to be used by other governments to provide financial incentives for abortion as a method of family planning. We wanted also to be sure that AID would not support programs to motivate or coerce women to practice abortion either as a substitute for preventive measures of family planning or against individual wishes or conscience.

The Congress, which has strongly supported family planning and other programs related to population growth, has consistently stressed that:

No individual will be coerced to practice methods of family planning inconsistent with his or her moral, philosophical, or religious beliefs.

Section 114 should not be construed as an attempt to dictate medical procedures to individual women in developing countries or to medical practitioners following the prevailing local customs and medical practice or to foreign governments. That is a matter of medical and personal judgment wholly beyond congressional authority and rightly so. Similarly, section 114 does not affect the policies and programs of international agencies that respond to local requests and circumstances.

Section 114 is designed to support additional research on all aspects of fertility control and to help medical practitioners to deal with the existing problems of self-induced abortion, hazardous late abortions, and various illegal procedures to which millions of women resort.

As the world faces new shortages of food and energy and therefore also of fertilizer and other vital commodities, it becomes ever more important to make available safe, acceptable and voluntary methods of family planning.

Mr. HELMS. Mr. President, I commend the Senate conferees for keeping the antiabortion language in the foreign aid bill. It was the will of the Senate that no U.S. Government funds be used for abortions, and the conference has returned language which will assure that this is the case. I know how hard it is to retain an amendment in conference which has been passed by only one body, but evidently the House conferees were confident that the House would support such language.

I am not surprised that such was the case, even though this will be the first time that Congress has gone on record as a statement of policy against the use of foreign aid funds for abortion. In years past, no one would ever have thought that it was necessary for Congress to take this step, but since AID has taken it upon itself in recent years to form its own policy, congressional action was necessary. This is an important step forward, therefore, and one that will have international implications for a better world.

I would also like to comment upon the outpouring of popular support for this amendment which came from all parts of the country. It was a stirring demonstration of the national sentiment on this issue, and it came from the grassroots itself. The major media saw fit to give little or no publicity to the fine action of the Senate in approving the amendment unanimously, yet the little people, the home-town folks, managed to get the message and to make their support felt strongly in the Congress. I know that the Members of Congress were impressed and gratified by the widespread expressions of reassurance and support, and that the response will not be forgotten when the proposals for constitutional amendments reaffirming the right to life come up for discussion.

Although the language approved by the Senate was modified in conference, I think that we can all be pleased with the results. It is now direct and simple, and in some respects stronger than the original version. It adds direct prohibitions against motivating or coercing any person to practice abortion, prohibitions

which were not in the original, and which emphasize more emphatically the opposition of the Congress to abortion. These additional provisions highlight the moral nature of the problem of abortion, and the repugnance with which Congress views any attempt to enlarge or expand the practice of abortion. I once again commend the conferees for their action in adopting language that is bolder and more effective than before.

I am also pleased that the conferees phrased the denial of funds for the "performance" of abortions. Performance is a word which has a very wide latitude of interpretation, and includes everything associated with "performance," including not only physicians' and hospital fees, salaries, or expenses, but also associated equipment and necessities, such as drugs, medical instruments, and other devices specifically designed to effect or to assist in effecting abortions.

It is also to be noted that the language specifically talks not just about abortions, but abortions as a method of family planning. I would think that this would include counseling abortions as a method of family planning, as well. After all, the first step in receiving an abortion would undoubtedly be a counseling session or attending clinics where abortion is presented as an acceptable option in family planning. This amendment clearly forbids U.S. Government funds from being used in programs which offer abortion counselling. This prohibition is reinforced by the language I have already referred to above; namely, the further prohibition against motivating people to practice abortion.

The language on motivation is also broadly drawn to include both women who might practice abortion upon themselves, and medical practitioners who might practice abortion upon others. This rules out training programs which have as a principal object the training of medical personnel to practice abortion. Such a program for example, is scheduled to start in January at Washington University in St. Louis, with others at Johns Hopkins University in Baltimore, Western Pennsylvania Hospital in Pittsburgh, and American University in Beirut. Each of these programs is getting $250,000 to $300,000 a year. While other techniques are also taught, I think it is plainly the intention of the Congress to halt the abortion component of such programs immediately.

Finally, it is quite clear that this language rules out any clinical testing or experimentation on human beings which has the effect of aborting or expelling the fetus. Whether such abortions are accomplished by pill or injection or surgery, they fall within the ambit of the prohibition against the performance of abortions. As I pointed out on October 1, there is a wide range of testing underway paid for with AID funds, with experiments being tried both upon U.S. citizens in this country and upon foreign citizens abroad. This abortion activity should cease.

I think it is incumbent upon AID to take steps as soon as this bill becomes law to prevent the use of U.S. Government funds from being used for any of the forbidden practices, including the spread of informational, propagandistic, or other motivational materials in support of abortion. At the very least this will require negotiation of tight agreements with international associations and funding agencies which act as a conduit for AID funds. There should be no commingling of funds used for abortions or propaganda programs with funds received directly or indirectly from AID.

Such precautions would scarcely have to be mentioned, except that AID's past concern over the efficient use of the funds it distributes has been minimal. I cite, for example, the GAO report on "U.S. Grant Support of International Planned Parenthood Federation Needs Better Oversight," study No. B–173240, dated September 14, 1973. The report sharply criticizes AID's sloppy and casual handling of audit requirements on IPPF grants. As examples, GAO cited:

Balance sheets and income and expenditure statements were not always presented.

Not all reports accounted for IPPF-granted commodities, and, when commodities were reported, there was no uniform treatment.

Some audits were not made by independent auditors.

Some reports were expressed in local currency.

Depreciation was not uniformly treated.

Many audit reports were not timely received.

These problems can be attributed to IPPF's failure to issue audit guidelines.

In addition, GAO reported that IPPF lacked sufficient qualified central office personnel or any system for periodic reassessment of programs. These criticisms are serious when it is realized that IPPF's overall budget increased from a mere $30,000 in 1961 to $32.5 million in 1973. About $11.5 million is contributed directly from AID funds. In addition, IPPF spends another $7.1 million which includes a large chunk of money supplied by local AID missions direct support.

GAO therefore recommended that the Administrator of AID provide for a specific phased plan for:

Timely submission of accurate and reliable reports and data from national associations;

More field reviews, inspection, and reports by IPPF central and regional offices;

Improvements in the extent and quality of independent audits of associations' programs and management; and

More effective evaluation and reporting by IPPF's central office to AID.

In view of the fact that AID has been a major proponent of abortion and abortion-related activities, I think that it is indispensable that this list of recommendations be further broadened to include effective and practical controls to make sure that none of AID's funds find their way into IPPF's abortion activities. In the same way, agreements should be negotiated with the U.N. Population Fund for similar audits to prevent the commingling of U.S. funds with abortion activities.

I call upon the Administrator of AID to take such steps immediately.

Finally, Mr. President, I would like to make a comment upon the language in the conference report, namely,

> This provision is not intended to interfere with or curtail support for preventive maternal and child health and family planning services and related research which are provided on a voluntary basis and in accordance with the prevailing local customs and medical practice.

This language preserves the careful distinction which I made in my statement of October 1. My amendment in its prohibitions reached only to, abortion and not to contraception. It was never intended to reach programs of a contraceptive nature. The distinction is not difficult. Contraception is prevention. It prevents life from beginning. Abortion is in no sense preventive; it kills life after it has begun. That is why the language adopted by the conferees completely eliminates abortion as a method of family planning. But local customs and medical practice differ on preventive methods and the conference report makes it clear that preventive methods of family planning, that is to say contraceptive methods, are not forbidden from support with U.S. Government funds. Research, distribution of materials, and clinical support may continue on preventive methods, but not for abortifacient methods.

I congratulate my colleagues for working so hard on this amendment, to so good a result.

Mr. President, I recently wrote to the new Administrator of AID, Mr. Daniel Parker, and asked him whether or not it was the policy of AID to support and encourage the killing of innocent unborn children through abortion. Mr. Parker has kindly written back under the date of November 21 and answers succinctly and to the point:

> Surely you must realize that it is not A.I.D.'s policy to support or encourage the killing of innocent unborn children through abortion. It is A.I.D.'s policy to conduct a vigorous program supporting, without any coercion whatsoever, the development of effective family planning programs in less developed countries. The purpose of our policy is to attempt as best we can, to help to avoid the disastrous worldwide consequences of continued unchecked population growth.

I want to thank Mr. Parker for his clear and unequivocal statement. It sets a new course for AID, as is entirely proper with the arrival of a new Administrator in the job. In conjunction with the language adopted in the conference, it sets forth new guidelines against which to measure AID's activity in this field.

Mr. Parker, in the rest of his letter, emphasizes the great need for the lack of coercion and the emphasis on voluntariness in such programs. It is a statement with which I could not agree more. The slightest suspicion that the United States was imposing its own views or the views of international groups on population growth on the recipients of foreign aid would definitely be counterproductive. That is one reason why I offered my amendment in the first place. If we fund programs which offend governments or

which offend large population groups even if the governments approve, we will be working against our best interests abroad. Such funding implies tacit approval, and we should not take sides one way or the other.

That is the reason why my original language, and the language of the conferees' version also, would only restrict the use of U.S. Government funds under the act for abortion. It would not put any restrictions whatsoever upon the programs of foreign governments and international organizations which fund abortion programs from other sources. Neither version would dictate what practices in other countries should be. But just as other countries should not be coerced to follow our values, so, too, U.S. taxpayers should not be coerced, under the law, to pay taxes to finance abortions. Since there is no effective way to make taxes voluntary, the only solution is to prevent the use of taxpayers' funds from being used for abortions.

Thus, the new language is in accord with the original policy set for AID in title X. As I have said before, I doubt that anyone who voted for title X originally would have considered that the concept of "family planning" would be perverted to include the killing of innocent unborn children through abortion.

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

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

DEPARTMENT OF STATE, AGENCY FOR INTERNATIONAL DEVELOPMENT,
Washington, D.C., November 21, 1973.

Hon. JESSE HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: We have your letter postmarked November 9 which unfortunately was not received by us until November 15. We do apologize but this accounts for our delay in responding.

Your letter raises an extremely serious and complicated subject. I would like first to answer your short and direct question in a short and direct way.

Surely you must realize that it is not A.I.D.'s policy to support or encourage the killing of innocent unborn children through abortion. It is A.I.D.'s policy to conduct a vigorous program supporting, without any coercion whatsoever, the development of effective family planning programs in less developed countries. The purpose of our policy is to attempt, as best we can, to help to avoid the disastrous worldwide consequences of continued unchecked population growth.

Title X of the Foreign Assistance Act of 1961, as amended, expresses the sense of Congress that . . . ". . . every nation is and should be free to determine its own policies and procedures with respect to problems of population growth and family planning within its own boundaries, . . ." That principle has formed a basic policy directive which has guided our family planning efforts. We have attempted to provide, within the words of Title X, ". . . voluntary family planning programs to provide individual couples with the knowledge and medical facilities to plan their family size in accordance with their own moral convictions and the latest medical information, . . ."

The question of abortion has arisen before on a number of occasions during Congressional considerations of the Title X program. Heretofore, Congress has chosen to continue the authorization after careful review without any restrictive provision attempting to dictate what practices in other countries should be.

A.I.D. believes the policy direction originally set for it in Title X is a wise and proper one. We are acutely aware of the widely divergent viewpoints in this country on the difficult and sensitive family planning issue. Practices in other countries reflect a similar diversity. That is to be expected on matters which are so closely related to the customs and morals of different peoples and of so uniquely personal in nature. We believe that such subjects should be left to each country in which family planning programs are undertaken.

Sincerely,

DANIEL PARKER.

Mr. AIKEN. Mr. President, I yield 15 minutes to the distinguished senior Senator from Idaho.

Mr. CHURCH. Mr. President, I hope the Senate will reject this conference report.

Americans are generous and compassionate people who have never been found wanting in contributing to the relief of suffering and hunger at home or abroad. Since the end of World War II, the United States has paid out some $180 billion in foreign aid, $857 for every man, woman, and child in America. But Americans have good reason to question whether their money has been wisely spent, when their tax dollars end up in the Swiss bank accounts of Cambodian generals or in the form of U.S. supplied tanks used to kill Greek and Thai students. It is false and misleading advertising to say that the current foreign aid program is for humanitarian purposes. Only a small portion of foreign aid can be labeled legitimately as humanitarian aid. The principal purpose of foreign aid today is to subsidize vested interests here and abroad. The program is kept alive through bureaucratic momentum and the willingness of Congress to bite the bullet and call a halt.

Mr. President, I did not sign the conference report for two basic reasons. First, the conference agreement lumps military and economic aid together into one legislative package; and second, the the amounts authorized by the bill are much too high. Let me discuss each of these briefly.

For years the Committee on Foreign Relations has called for the separation of military from economic aid so that Members of Congress would have an opportunity to consider each type of aid on its own merits. Two years ago the Senate, for the first time, defeated a House-approved combination foreign aid bill, partly because Members were not permitted to choose between economic and military aid. They had to take the good with the bad, the bitter with the sweet. As a result, the Senate rejected both. Afterwards, the Senate resurrected the program by passing two bills separating economic from military aid, only to have them combined later into one bill in conference.

This year, the Senate again passed two separate foreign aid bills. Again, the conference performed a forced marriage, creating another omnibus monstrosity. In this bill, Senators are asked to endorse another $370 million in military aid for Cambodia sweetened with $25 million for famine relief in Africa. This Mulligan's stew of objectives is indigestible.

Congress has a responsibility to legislate in an open, understandable manner. This bill is a step backward, a procedure calculated only to gain a few more votes in the House by piggybacking economic aid through on the back of an only slightly less unpopular military aid program. The Senate should refuse to be a party to such ramrod tactics. These are two separate programs, with separate and distinct objectives, run by different agencies. Each should stand on its own bottom. The conference agreement takes away the Senate's freedom of choice and forces Members to accept—or reject—the good with the bad.

The Senate should reaffirm its action of 2 years ago and vote down this approach.

Now, as to the amounts involved, the total foreign aid available under the conference bill is almost $1 billion more than was allowed in the two original Senate bills. Yet the table in the conference report shows $404,021,000 more than the Senate approved. This is but a bit of sleight of hand. The table in the conference report does not take into account the $561,500,000 in additional foreign assistance, not in the Senate bill, that will be available under the conference agreement from loan repayments, drawdown of Defense Department stocks, and surplus arms and equipment that can be given away. Not only is the conference total vastly higher than the Senate figure, but it is also $335,534,000 more than the annual spending rate allowed under the continuing resolution.

Mr. President, this bill alone will increase by a third of a billion dollars the present level of spending for the regular foreign aid program and that is just the beginning for, as the Senate well knows, there will be supplementary bills to follow.

As a matter of fact, even without the supplementaries, this bill represents only a part of the Nation's overall foreign aid program. The total of all the bits and pieces of the foreign aid program proposed by the executive branch for this fiscal year comes to a staggering $8,643,349,000.

Our Nation's economy is in serious trouble, with even more difficult times ahead. Responsible economists and businessmen predict an unemployment rate of 8 percent or more within the next year or so. Inflation and increased taxes are taking more out of the pocketbooks of Americans every day; this is the worst inflation experienced by the American people in 25 years.

A few days ago, the Senate voted to raise the Federal debt limit to $475.7 billion. It is currently estimated that this year's budget deficit will reach $15 billion. But this does not take into account the $2.2 billion supplemental aid request for Israel, the multibillion dollar supplemental being planned for the Defense Department, or the impact of the energy crisis on the economy and tax revenues. Make no mistake about it, the bill now

before us will add $3 billion to the Federal debt. This is no time for a business-as-usual foreign aid bill.

I cannot believe, in view of the seriousness of the current inflation, our depleted Treasury, our devalued dollar, and the prospect of further economic troubles to come, that the Senate wants to increase by a third of a billion dollars the regular foreign aid program, particularly in view of the supplemental requests still to come.

I read in the newspaper this morning that the House Appropriations Committee has just voted out appropriations for foreign aid this year. I wish to read portions of that newspaper report which appeared in today's edition of the Washington Post. The article states:

The House Appropriations Committee yesterday approved a foreign aid spending bill of $5.8 billion, biggest since the Korean War.

The bill includes $2.4 billion for emergency military aid to Israel and Cambodia requested by President Nixon Oct. 19.

House Appropriations Chairman George Mahon (D-Tex.), said last week the request would almost certainly break the administration's 1974 "anti-inflation" budget goal of $268 billion.

Mr. MAHON also reported that this is the largest foreign aid appropriation that has come before Congress since 1953.

Mr. President, I ask unanimous consent to have printed in the RECORD the article printed in the Washington Post this morning, to which I have just made reference.

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

$5.8 BILLION IN AID VOTED BY HILL UNIT

The House Appropriations Committee yesterday approved a foreign aid spending bill of $5.8 billion, biggest since the Korean War.

The bill includes $2.4 billion for emergency military aid to Israel and Cambodia requested by President Nixon Oct. 19.

House Appropriations Chairman George Mahon (D-Tex.) said last week the request would almost certainly break the administration's 1974 "anti-inflation" budget goal of $268 billion.

The bill was approved on a voice vote after the committee restored $500 million of emergency funds for Israel chopped out last week by the Foreign Operations Subcommittee.

Subcommittee Chairman Otto Passman (D-La.) said he personally proposed restoring the money after being given additional information by the White House, Secretary of State Henry A. Kissinger and Defense Secretary James Schlesinger.

Israel's share of the bill actually comes to $2.6 billion, because other sections would give it an additional $400 million in military and refugee resettlement aid.

The committee wrote in provisions requiring an immediate presidential report if more than $1.7 billion of the emergency funds were spent, and it suggested giving Israel 25 years to repay loans under the act.

Other money in the bill, biggest since the $6.6 billion of 1953:

$2.4 billion for regular foreign assistance.

$325 million for foreign military sales.

$1 billion for projects not administered by the Agency for International Development, such as the Peace Corps, international banks and refugee relief.

$150 million in emergency relief funds for the famine-stricken Sahel region of West Africa.

The House meanwhile passed the authorizing bill for regular foreign assistance on a 210-to-193 vote and sent it to the Senate where it faces a possible floor fight.

Mr. CHURCH. Mr. President, in the face of this reality, what point is there to the juggling of figures that make it seem as though Congress is cutting back on this or that provision of the bill? If this conference report is approved by the Senate today, it will authorize a regular foreign aid program that is approximately a billion dollars larger than that authorized by the Senate when the two original bills were before us.

I urge the Senate to reject the conference report.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. CHURCH. I am happy to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I am very much impressed with the facts being developed by the able senior Senator from Idaho. I wish to ask this question: What is the total amount involved in the legislation before the Senate now?

Mr. CHURCH. The total amount involved is $2.9 billion, just under $3 billion.

Mr. HARRY F. BYRD, JR. One might say in round figures $3 billion?

Mr. CHURCH. Yes, $3 billion.

Mr. HARRY F. BYRD, JR. Which is $1 billion more than the Senate previously approved.

Mr. CHURCH. The Senator is correct.

Mr. HARRY F. BYRD, JR. This legislation is only a part of the total foreign aid and foreign assistance program, is it not?

Mr. CHURCH. The Senator is correct. It represents less than one half of the total foreign aid program as originally requested by the administration.

Mr. HARRY F. BYRD, JR. Did I understand the able Senator from Idaho to say that the foreign aid appropriation bill now before the House will be the highest for any year since 1955?

Mr. CHURCH. Since 1953.

Mr. HARRY F. BYRD, JR. Since 1953. We are appropriating more money for foreign assistance now than we have in any year since 1953. That is an astonishing fact.

The American people have been told, told by the Senate, in speeches made in the Senate, that we are reducing foreign aid. The fact is that we are increasing foreign aid.

No wonder the American public does not have much confidence in the credibility of their Government.

I thank the Senator for yielding.

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

Mr. CHURCH. I shall be glad to yield, but first I wish to respond to the Senator from Virginia.

The Senator is quite correct. I think that the action of the Senate—should we approve this conference report—is even less defensible in light of the fact that we solemnly pledged ourselves, at the commencement of this session, to respect an overall spending limit of $268 billion.

But now, if the chairman of the House Appropriations Committee is to be believed, the foreign aid appropriation will break that ceiling wide open.

Yet I cannot count the number of times the Members of the Senate pledged themselves, earlier this year, to a substantial reduction in foreign aid as well as a reduction in military spending and space spending in order that we might at least bring expenditures within the ceiling asked by the President and pledged by Congress.

Mr. HUMPHREY. Mr. President, will the Senator yield, either on my time or his time?

Mr. CHURCH. I yield on the Senator's time, because I think I am a little short of time.

Mr. HUMPHREY. Mr. President, on my time, I will just take 2 minutes.

First of all, I think the record should be clear that this bill is $359,234,000 less than the administration's request for this fiscal year. That is a reduction. When the President sent down to us his budget ceiling of $268 billion, it included a higher foreign aid figure than the conference report provides. This is a reduction of almost $400 million.

Second, it is approximately $210 million less an authorization than we appropriated last year. I do not care how you play with the figures—that is a fact.

When we talk about this being the highest foreign aid bill we have had, it must be remembered that the House has added $2 billion for aid to Israel as a special item in which this country has a great interest, and it is that overall assistance and military assistance which makes the figure high.

May I point out that 1953 dollars bought a whole lot more than 1973 dollars do. I wonder how Senators would like to have their salaries paid on the basis of 1953. I wonder how we would like to have committee expenses on the basis of 1953. I think we would even like to have gasoline at 1953 prices.

So when we consider the figures on the basis of what they buy, it is approximately 50 percent less than they bought in 1953. Therefore, we are getting a great reduction in the actual expenditures for goods and services.

I do not think anyone can deny that. The facts are here and they speak for themselves.

Mr. CHURCH. I would like to reply to the argument of the able Senator from Minnesota. He has given us accurate figures. It is true that this authorization bill is below the amount originally requested by the administration, and it is also true, as he has pointed out, that the action taken by the House Appropriations Committee does include supplemental money for Israel. But if we are going to determine how much money we shall spend for foreign aid this year, we cannot confine ourselves to this particular bill. We must look at all the expenditures we are likely to approve, and when we look at all of them, when we consider the action the House has already taken, it is obvious that we are in the process of approving a foreign aid program that is larger than any since 1953.

Now let us return to this bill. Even though this bill is below the level of spending requested by the administration, it is nonetheless about $1 billion

above the level that was previously approved by the Senate, when it considered the economic and military aid bills separately. What has the conference committee done? It has put the two bills together and has added $1 billion to what the Senate previously authorized. Moreover, the level of spending in this bill is substantially above the authorized level under the current continuing resolution.

So, no matter how you cut it, this bill adds a lot of money to foreign aid.

The Senator from Minnesota says the bill represents only a ceiling, and we must wait to see what the Appropriations Committee will do. Well, we always have to wait to see what the Appropriations Committee will do. Nevertheless, just 2 months ago, I heard the Senator, in connection with a different matter, argue that the place to start economizing is with authorization bills, to lower the ceiling.

Mr. HUMPHREY. And I agree.

Mr. CHURCH. And then we can cut the appropriations.

Mr. HUMPHREY. I agree, and we lowered the ceiling by $400 million. Not bad.

Mr. CHURCH. I think that is legerdemain, because the important figure is the present level of authorized spending as compared with the level provided by this bill. That is the way to determine whether we are going up or down. No matter how you look at it, we are going up.

Mr. HUMPHREY. The Senator will note there is an authorization of $209 million less than we appropriated last year. That cannot be disputed.

Mr. CHURCH. As the Senator well knows, how much will be appropriated this year, nobody can foretell. All we can do now is set the new spending ceiling. That is where we should begin to economize, and we cannot do it with this conference report, because it calls for an authorized ceiling for spending that is one-third of a billion dollars above the present one.

Such are the figures. Let us not fool ourselves. We are raising the ceiling for the foreign aid program with the passage of this bill.

And this is only the beginning. We will have the supplemental bill to consider, which will add at least $2 billion more, and the other items contained in the measure recommended by the House Appropriations Committee, items that relate to Peace Corps money, to money for emergency relief for the famine-stricken areas in Africa, and money for the multilateral banks.

All of this, taken together, represents the largest foreign aid package presented to the Congress since 1953.

Mr. President, Members of the Senate know how I feel about the bilateral foreign aid program. It has failed, and I have called for a very different kind of program. The only way I know to restructure foreign aid to design a program that will achieve, through multilateral agencies, long-term economic development, one that will drastically cut back on military assistance for corrupt, despotic governments all over the world, is to call a halt to the present program. That is what we must do. And until we do it, we will not get meaningful reform, just more cosmetic changes of the kind contained in the pending conference report.

There is but one solution: Reject this conference report and force upon Congress and the administration a new and different approach to the foreign aid question.

Mr. President, in closing, I ask unanimous consent that two tables on foreign aid spending be included here in the RECORD.

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

TRANSFERS OF U.S. RESOURCES TO FOREIGN NATIONS—WORLDWIDE DISTRIBUTION BY PROGRAM

[In thousands of dollars]

	Fiscal year—		
	1972 actual	1973 estimated	1974 proposed
Grand total of all U.S. resources transferred	9,278,578	9,511,259	8,643,349
Security assistance (subtotal)	6,040,038	5,945,192	4,111,417
Military assistance program	549,892	589,100	771,500
Distributed by country	(527,813)	(453,028)	(648,727)
Not distributed by country	(22,079)	(136,072)	(122,773)
Int. mil. education and training program			33,000
Distributed by country			(30,123)
Not distributed by country			(2,877)
Military assistance service funded	2,584,100	2,735,000	1,870,800
Distributed by country	(2,584,100)	(2,735,000)	(1,870,800)
MAAG administrative costs			
Military department funded	95,157	96,110	52,409
Distributed by country	(95,157)	(96,110)	(52,409)
Transfer of defense stocks	252,421		
Distributed by country	(252,421)		
Excess defense articles	107,318	185,000	185,000
Distributed by country	(107,316)	(184,000)	(185,000)
Not distributed by country	(2)	(1,000)	
Ships transfers, distributed by country	159,696	121,000	6,500
Real property transfers	631,128	721,091	244,553
Security supporting assistance	593,226	627,891	124,055
Distributed by country	(577,883)	(606,786)	(117,500)
Not distributed by country	(15,343)	(21,105)	(6,555)
Foreign military credit sales	550,000	550,000	760,000
Distributed by country	(550,000)	(550,000)	(760,000)
Export-Import Bank military loans	190,000	100,000	NA
Distributed by country	(190,000)	(100,000)	NA
Public Law 480 (sec. 104(c)), distributed by country	(67,060)	(157,900)	(162,080)
Purchase of local currency (Vietnam)	327,100	220,000	63,600
Indochina postwar reconstruction (subtotal)			630,945
Distributed by country			(614,000)
Not distributed by country			(16,945)
Development assistance (subtotal)	3,238,540	3,566,067	3,900,987
Agency for International Development	(1,474,228)	(1,334,491)	(1,338,314)
Development loans, distributed by country	535,700	493,400	596,000
Not distributed by country	68,350	99,600	49,000
Development grants, distributed by country	111,726	98,603	102,725
Not distributed by country	66,657	73,897	84,525
Population programs, distributed by country	27,842	32,717	37,071
Not distributed by country	11,904	11,306	9,675
South Asian relief	194,422	101,100	500
American schools and hospitals abroad, not distributed by country	19,987	25,532	10,000
International organizations and programs, not distributed by country	182,037	145,631	177,122
Administrative expenses, not distributed by country	58,628	57,159	57,875
Administrative expenses, State	4,448	4,420	5,100
International narcotics control and contingency fund, distributed by country	49,812	12,617	20,481
Not distributed by country	17		
Contingency fund, undistributed		12,773	30,300
Narcotics, undistributed			9,738
Program support and interregional activities, not distributed by country	142,696	165,736	148,202
Peace Corps, distributed by country	50,314	50,715	51,463
Not distributed by country	3,855	7,227	6,543
General support	20,931	22,898	18,995
Public Law 480, distributed by country	1,025,115	1,072,410	976,575
Not distributed by country	96,888	9,790	22,345
Ocean freight	190,510	162,500	117,700
Grants of title I, sec. 204	3,001	2,000	1,000
Private trade entities		13,400	10,000
Emergency reserve			19,180
U.S. contributions to international financial institutions:			
IBRD:			
Paid-in capital	12,300		
Callable capital	(110,700)		
International Development Association		320,000	320,000
Inter-American Development Bank:			
Paid-in capital	75,000	25,000	25,000
Callable capital	(136,800)	(168,400)	(168,380)
Fund for special operations		225,000	500,000
Asian Development Bank:			
Paid-in capital			24,200
Callable capital			(96,800)
Special funds			100,000
State Department migration and refugee programs, not distributed by country	14,895	12,067	7,600
Inter-American Foundation	2,847	3,473	13,285
Pan American Highway	343		
Darien Gap Highway	9,755	20,000	30,000
Mutual Education and Cultural Exchange	29,579	32,563	38,557
Nonregional	11,226	12,437	14,443
Trust Territories of the Pacific	55,581	63,903	66,000
Contributions to international organizations (State Department)	162,172	176,191	199,787

COMPARATIVE DATA ON FISCAL YEAR 1974 FOREIGN AID AUTHORIZATION LEGISLATION

[In millions of dollars]

	Executive branch authorization request	Continuing resolution	House bill	Senate bill	Conference agreement	Difference from Senate amounts
I. ECONOMIC ASSISTANCE						
Indochina postwar reconstruction for South Vietnam, Laos and Cambodia	$632.0	$431.0	$632.0	$376.0	$504.0	+$128.02
International organizations	124.8	94.1	127.8	127.822	127.8	−.02
Indus Basin grants	15.0	9.0	15.0	14.0	14.5	+.5
Old development loan/grant categories:						
Loans (including Alliance for Progress)	351.4	310.2				
Grants (including Alliance for Progress	251.8	210.5				
Population	(116.0)	89.8	(125.0)	(125.0)	(125.0)	
New development assistance categories:						
Food and nutrition			300.0	282.0	291.0	+9.0
Population planning and health			150.0	141.0	145.0	+4.0
Education and human resources			90.0	94.0	90.0	−4.0
Selected development problems			60.0	47.0	53.0	+6.0
Selected countries and organizations			50.0	28.0	39.0	+11.0
Miscellaneous categories:						
American schools and hospitals	10.0	9.0	20.6	19.0	19.0	
International narcotics control program	42.5		50.0	40.0	42.5	+2.5
Contingency	30.0	22.4	30.0	23.5	30.0	+6.5
Partners of the Alliance			.968	.9	.934	+.034
Administrative expenses (AID)	53.1	45.9	53.1	24.0	45.0	+21.0
Refugee relief assistance (Bangladesh)						
Arab refugees			2.0		2.0	+2.0
African famine relief			30.0		25.0	+25.0
Albert Schweitzer Hospital				1.0	1.0	
Total economic assistance	1,510.6	1,221.9	1,610.868	1,218.222	1,429.734	+211.512
II. MILITARY ASSISTANCE						
Grant military assistance	652.0	493.9	550.0	420.0	512.5	+92.5
Regional naval training						
Security supporting assistance (outside Indochina)	100.0	107.8	125.0	125.0	125.0	
Military credit sales	525.0	358.6	450.0	200.0	325.0	+125.0
Military training			30.0	25.0		−25.0
Total military assistance	1,277.0	960.3	1,155.0	770.0	962.5	+192.5
Total economic and military assistance	2,787.5	2,182.2	2,765.868	1,988.222	2,392.234	+404.012
Other items:						
Loan reflows	323.0	251.0	323.0		161.5	+161.5
Drawdown authority for military aid	300.0		323.0		250.0	+250.0
Excess defense articles	185.0	185.0	185.0		150.0	+150.0
Total	808.0	436.0	808.0		561.5	+561.5
Grand total	3,595.5	2,618.2	3,573.868	1,988.222	2,953.734	+965,512

Mr. CHURCH. Mr. President, I also ask unanimous consent that a letter I have sent to my colleagues urging them to reject the conference report be included here in the RECORD.

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

U.S. SENATE,
Washington, D.C., November 30, 1973.

DEAR COLLEAGUE: In the near future, the Senate will be voting on the foreign aid conference report which authorizes over $2.9 billion in both economic and military aid during this fiscal year.

In view of the commitment that Congress has made to impose a ceiling on spending, I declined—as a conferee—to sign the report, and I will vote against it when it comes before the Senate.

The amount authorized in the conference report is nearly $1 billion more than the amount originally approved by the Senate, and it is $335 million more than the amount spent in fiscal 1973 under the continuing resolution.

The need to hold down spending, rather than increasing it still more, was clearly indicated by the announcement November 26 by the Treasury Department that the Federal budget fell $5.5 billion further into the red during the month of October alone.

In passing judgment on the conference report, it should also be called to your attention that over the past 12 years—since fiscal 1962—we have expended $3,063,000,000 in foreign economic and military aid to the Arab nations, according to figures compiled by the Senate Foreign Relations Committee.

Yet, this aid has bought us nothing but the prospect of cold furnaces and empty gas tanks. For all the gratitude we've earned, we might better have kept the money here at home and burned it for fuel this winter.

In the face of this experience, increasing foreign aid this year should give every Senator pause. Obviously, the program produces neither gratitude nor reciprocal consideration from those who receive the benefits. This would seem to be a lesson that we refuse to learn.

It seems to me it's time to call a halt. I hope you will join me in opposing the conference report.

Sincerely,

FRANK CHURCH.

Mr. CHURCH. Mr. President, if I have the time, I would like to read the letter into the RECORD at this point.

Mr. President, how much time do I have?

Mr. AIKEN. Mr. President, how long would it take?

Mr. CHURCH. Two or 3 minutes.

Mr. AIKEN. Go ahead and read it. I will yield the Senator 3 minutes.

Mr. CHURCH. I thank the Senator from Vermont for yielding me some additional time.

This is the letter. It reads as follows:

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In the face of this experience, increasing foreign aid this year should give every Senator pause. Obviously, the program produces neither gratitude nor reciprocal consideration from those who receive the benefits. This would seem to be a lesson that we refuse to learn.

It seems to me it's time to call a halt. I hope you will join me in opposing the conference report.

Mr. President, in conclusion, however one may feel about the foreign aid program, the size of it should be trimmed back to what we can presently afford, given the economic problems that now face the country. This is an objective that I think the American people overwhelmingly endorse.

Now is the time, and the means is to reject this conference report. Only then can we commence to restructure foreign

aid in ways that make sense for the country.

RESPONSE TO SENATOR CHURCH'S LETTER

Mr. HUMPHREY. Mr. President, Senator CHURCH's opening paragraph is misleading. He adds a contingent authority—MAP drawdown authority—an exemption for excess defense articles up to a certain value, and repayments of prior year loans to new obligational authority and calls the total—$2.9 billion—new obligational authority. To the contrary the conference report authorizes about $2.4 billion in new obligational authority, which is $374 million below the House bill and $404 million above the Senate bill—an almost even split. In fact, the economic assistance authorizations were split approximately 50–50. Senator CHURCH further distorts the conference results by claiming that the report is nearly $1 billion above the amount originally approved by the Senate. Once again, he has added apples to oranges and called them all oranges. He adds to the $404 million increase above the Senate bill, $562 million that represents the military aid drawdown, excess defense article exemption and loan repayments—all of which do not require new obligational authority. Lastly, because Senator CHURCH so distorts the figures, he can claim that the conference report is $335 million above the fiscal year 1973 continuing resolution. The fact is that the conference report actually represents a cut of about $20 million from what could be spent in fiscal year 1973 when Senator CHURCH's extra items are accounted for.

Senator CHURCH also implies that by defeating the conference report we will serve notice to the Arab nations that after having given them over $3 billion in the past 12 years, we are shutting off the tap. The truth is that the conference report authorizes modest amounts of development assistance for Morocco, Tunisia, and the Yemen Arab Republic—none of which are significant oil exporters. What is more important is that the defeat of the conference report could jeopardize our efforts to support certain moderate Arab governments who are expected to play an important role in our quest for a solution to the present Mideast crisis.

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

Mr. AIKEN. Mr. President, how much time does the Senator require?

Mr. ABOUREZK. Mr. President, I would like to have 20 minutes, but perhaps it will not take that long, if I can be yielded that much time.

Mr. HUMPHREY. We have extra time.

Mr. AIKEN. Mr. President, I yield 20 minutes to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 20 minutes.

Mr. ABOUREZK. Mr. President, if I might state to the Senator from Idaho and the Senator from Minnesota, who is managing this bill, that if we are going to renew priorities in any way, shape, or form, we have a roughly $3 billion foreign aid bill. We are now considering voting on $1 billion more than the Senate has voted on in the two separate economic and military bills.

A couple of weeks ago, I heard testimony from an Assistant Secretary of Health, Education, and Welfare before the Indian Affairs Subcommittee. The hearings that I was chairing at the time were on the problems facing the Indian health service and the amount of money they might need to do their work.

According to the testimony of the Director of the Indian Health Service, as well as an Assistant HEW Secretary, they would need this year just to catch up and close the gap in order to provide adequate medical care for the Indian people of this country an additional $40 to $50 million.

The Rosebud Indian Reservation in South Dakota is the reservation on which I was born. A doctor in the Indian Health Service from that reservation at this time testified that there were 400 Indian patients walking around the reservation who needed surgery of one kind or another, and that they had neither the money or other resources that were necessary to perform this surgery.

The lives of every one of those persons is going to be shortened, because of the lack of facilities and money with which to perform the surgery needed by those people.

Every reservation in the Western States has about the same problem. And yet, in considering this kind of a foreign aid bill, part of which, as the Senator from Idaho has said, is humanitarian, and only a very small part, I think that we do damage to the concept of helping the people in this country and the people throughout the world.

Mr. President, I believe that we in Congress have in the past been derelict in not spelling out the guidelines necessary to the creation of a foreign assistance program consonant with the goals, ideals and interests of the American people. We have given too much discretionary power to the President and his appointees, and therefore, we have some responsibility to bear if our AID programs have increasingly been used for political purposes.

I further believe that there is not any necessary conflict between a sound concept of the national interest and a sound commitment and understanding of the goals of world development and the protection and promotion of human rights and dignity all over the world.

As a result of the cold war mentality—a mentality which I believe is now possible for us to overcome, even if it means some rethinking of assumptions and the examination of some well-funded programs—our foreign policy has come to focus largely upon questions that were called questions of "national security." We have become well-aware recently that "national security" has been used to justify secrecy about the public's business, an extension and abuse of police and surveillance powers, and an increasing callousness concerning human rights and dignity. In short, the paranoia of the cold war has caused the Government to be diverted from its proper end of "promoting the general welfare" and protecting and promoting the rights of its citizens to a competition of scarcely veiled power and threat against the alleged threat of other nations. To such a low estate has politics in this country—and art of diplomacy in most of the world—sunk, that few people dare talk about the rule of law rather than of arbitrary force.

In other words, we have come to embrace, in the "spirit" of the cold war, the ancient but not honorable dictum, that "might makes right." Our foreign policy has increasingly come to rely upon police power, military aid, military alliances, and support for repressive and authoritarian governments as a means of creating world "stability," instead of a foreign policy that promotes the respect for law and popular sovereignty, and the restraint of police and military power, and the promotion of justice, rather than unchallenged military power, as the surest basis for stability. I say that social peace and world peace can only be built upon the basis of justice and good will, and that all the arms in the world, and all the book-burning street parties of soldiers, and all the tortures and tiger-cages, and all the sophisticated equipment and tear-gas grenades that our Government gives to nations with what some call "chronic instability"—all this cannot produce peace.

Peace is the result of full participation of all peoples in the society in which they live, peace is the result of justice and dignity, peace is the result of rule by law. We cannot maintain peace here, nor help build it abroad, by continuing to try to be the policeman of the world. We cannot help build law, and constitutional government here, and abroad, by supporting those who break the law, and those who confuse the supposed efficiency of totalitarianism and militarism with progress. The time has come for us to take stock of our foreign policy and to recognize how far and dangerously we have allowed our foreign aid program to stray from the ideals for which the country stands. Exactly because we stand at the beginning of an as yet undefined new era—the post cold war era—we have a heavy responsibility to take an active part in the formulation of the themes of this period.

One of the Senate's most distinguished experts on foreign policy, Senator CHURCH, remarked a few years ago when foreign policy drifts too far away from the national goals and ideals it will tend to lose the confidence of the people of that nation. Our Nation is today beset with a series of crises of self-doubt; we have begun to doubt ourselves, our dreams, our values, and our own integrity. We, as Members of Congress, must assume a role of leadership in the face of this crisis, even if it means running the risk of being misunderstood, and of criticism from those who have an entrenched interest in the maintenance of the existing attitudes and programs.

Our foreign policy is certainly one area in which the American people have begun to lose faith in their Government.

Powerful lobbies, representing private interests, lobby secretly to maintain military and foreign aid commitments in which only they have an interest, in that these programs represent neither the goals and aspirations of the American people, nor the goals and aspirations of the great majority of the people of the underdeveloped nations. Of course, there exist in other nations a willful and powerful elite that also wants to try to maintain its centuries-long dominance over the now restless majority, and which often finds common cause with our own military and AID elites. But let us not be misled: the majority of the people of the world do hunger for peace with justice, not stability enforced by ever-growing Military Establishments; the majority of the people of the world are poor, and this poor majority hungers for bread, not for bullets, for more teachers, not more policemen, for more doctors and nurses, not for more tanks and anti-riot training for the nation's police.

Let us then move to reestablish the confidence of the American people in their foreign policy by bringing it in line with the traditional goals of the Nation, and making it consistent with those universal aspirations so well stated in the Universal Declaration of Human Rights, of the United Nations, whose 25th anniversary we celebrate this December 10. It is not an American model that we "seek to impose" on the world, it is the recognition of the rights of all persons to freedom and dignity as has often been stated as an aspiration by the United Nations that we seek to promote, often against willfull and self-serving minorities who cloak their repression behind appeals to anticommunism, and their antidemocratic bias by a refusal to answer charges publicly. Foreign aid has become pretty largely the instrument of a few, and not the arm of the Nation, it has become the servant of some multinational corporations against democratically elected governments, it has become a weapon in the cold war rather than in the world struggle against poverty, hunger, disease, and repression.

America believes itself to be "the land of the free, and the home of the brave." I believe that is America, but I do not want to have to add to that—

And, the ally of the dictatorships, the supporter and supplier of police-states, the sustainer of repressive governments.

Instead of being the policeman of the world, let us be true to ourselves, true to the vision of the Founding Fathers, and true to our children, and their children: Let America be a friend of the weak and the champion of the oppressed.

That, Mr. President, is what this foreign aid bill does. I urge that the Senate reject the conference report, and I reserve the remainder of my time.

Mr. AIKEN. Mr. President, how much time do we have left?

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. AIKEN. Then I have 30 minutes left, and the Senator from Minnesota has 33.

Mr. HUMPHREY. I have 33.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from Minnesota yield for a question?

Mr. HUMPHREY. Yes, I will be happy to yield to the Senator from Virginia for a question.

Mr. HARRY F. BYRD, JR. On page 50 of the conference report, it is pointed out that the Senate bill contained a provision which prohibited the transfer of combatant naval vessels to a foreign country except with specific approval by Congress. I am just wondering why the conferees dropped that proposal.

Mr. HUMPHREY. The real fact is, as one who is experienced in the art of, should I say the misery of, conference, that House was absolutely adamant on its position. It wanted to leave things exactly as they are now. We just were faced with a road block of stubborn opposition.

Mr. HARRY F. BYRD, JR. That provision was put into the bill by the Foreign Relations Committee. I might point out that not only was that provision put in this measure by the Foreign Relations Committee, but the Senate, some time ago, passed general legislation to do the same thing.

Mr. HUMPHREY. Yes.

Mr. HARRY F. BYRD, JR. And that legislation is now being considered by the House Armed Services Committee.

Mr. HUMPHREY. That is correct. So it is not a lost cause.

Mr. HARRY F. BYRD, JR. No, it is not a lost cause, but it is a lost cause so far as this bill is concerned.

Mr. HUMPHREY. But may I say that next year on military aid there will be separate bills, and we will not find ourselves in the same bind that we were this year. I will be very frank—you know, we have to level with each other——

Mr. ABOUREZK. Excuse me. Mr. President, will the Senator use his microphone?

Mr. HUMPHREY. I will state to the Senator from Virginia, I will just be very frank with him, this is one we argued over a great deal. The chairman of our committee (Mr. FULBRIGHT) felt very strongly about this, but we felt that in the light of the other concessions which we had obtained, we would have to recede on this one or we would have no agreement at all.

Mr. HARRY F. BYRD, JR. It is a very interesting situation that we find ourselves in. Under the law, the executive branch and the Defense Department cannot make loans to foreign countries of combatant vessels without the approval of Congress, but they can, on their own, sell the vessels at whatever figure they wish. It seems to me that is a very ridiculous position for Congress to be in.

Mr. HUMPHREY. I think it is, and I think it is one we ought to remedy. We do have the means of doing it by separate legislation, and I think that is the way to do it.

Mr. HARRY F. BYRD, JR. I thank the Senator. Will the Senator yield me time to speak on the conference report?

Mr. HUMPHREY. Yes; the Senator from Vermont has time and I have time. How much time does the Senator want?

Mr. AIKEN. Does the Senator wish to speak in opposition?

Mr. HARRY F. BYRD, JR. Yes; I oppose the conference report.

Mr. AIKEN. How much times does the Senator want?

Mr. HARRY F. BYRD, JR. Ten minutes.

Mr. AIKEN. I yield the Senator from Virginia 10 minutes. That leaves 10 minutes left for the Senator from South Dakota and 10 minutes left for who knows whom.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I oppose the adoption of this conference report. I hope the Senate will vote it down. I hope the Senate will throw it out the window.

The conference report proposes a $3 billion authorization for the general foreign aid program. That is $1 billion more than the Senate authorized, and this is only a part of the total foreign aid and assistance which our Nation is giving to other countries.

When one analyzes the entire budget, one finds that scattered throughout the budget is a total of at least $10 billion in foreign aid and foreign assistance, and that does not include $8 billion of additional Export-Import Bank credits. So if you include the Export-Import Bank credits—and I am not certain in my own mind whether they should be included; they are in sort of an ambiguous position, and I am not clear as to whether they definitely should be included as a part of the foreign aid program, but if you include them as a part of the foreign aid program, then the total aid and assistance to foreign nations adds up to $18 billion.

But even if you do not include the Export-Import Bank credits, we still have a total of more than $10 billion. I say that that is not a very responsible thing for Congress to do; and I will tell you why I feel it is not responsible.

This Government is wallowing in debt. It is floating in red ink. We will have a Federal funds deficit this year, by the administration's own figures, of $19 billion. The interest on the national debt—just the interest charges, in this one budget—is $29 billion. That is twice as much as the Government will spend on weapons systems acquisition for the defense of the United States.

The able Senator from Minnesota in his comments stressed the fact that our country needs friends. That was one of the arguments the Senator from Minnesota gave for adoption of the conference report.

This country does need friends, but have we not learned, after 27 years and especially $200 billion of foreign aid, that we cannot buy friends?

I submit that individuals cannot buy friends and the history of the past 27 years shows that a government cannot buy friends. No government in the history of the world has ever given away to other countries the vast sums of money that this country has given away during the past 27 years.

We should completely reappraise our foreign aid programs, and drastically reduce the amount of money we siphon off from our taxpayers and ship overseas. We are asking our wage earners to take out of their pockets money for taxes to

be paid into the Federal Treasury and then we are siphoning off at least $10 billion every year of that money into foreign countries.

Today, Mr. President, I say that we have fewer friends than we had 27 years ago when we started to give away the American taxpayers' money.

This conference report of $3 billion is, in my opinion, unjustified. I think it is not responsible or desirable to use this great amount of money for the purposes included in the conference report.

I shall vote against it and I hope that the Senate will defeat it.

I believe that if the American people could understand the way their elected representatives are handling their tax funds—it is a complicated matter, and there is no political sex appeal in financial matters—they would rise up in arms. But they have been led to believe, by speeches in this Chamber and in the House of Representatives, "Oh, we are reducing foreign aid." We are not reducing it at all. In a moment I will place some figures in the RECORD to show the vast amount of money that is in the present budget for foreign aid and foreign assistance.

Mr. President, even if the measure before us were more desirable than it is, in my judgment, I think that the Government, the President, and Congress, are going to have to cut somewhere, to reduce expenses somewhere, if we are not going to have more inflation, more taxes—or both.

These huge Government deficits represent the major cause of the inflation which is eating so heavily into the paychecks of our wage earners and into the grocery dollar of every housewife.

For the 5-year period ending next June, the total Federal funds deficit—the accumulated deficit—will total $116 billion. I repeat, $116 billion. That represents 25 percent of the total national debt of this country; yet here the Senate is today preparing to vote on a conference report on foreign assistance, a report totaling $3 billion, more than $1 billion more than the Senate approved just a short time ago.

Now, Mr. President, I hope that the conference report will be defeated. I think we would be serving the interest of the American taxpayer if we were to defeat it.

Now, Mr. President, I ask unanimous consent to have printed in the RECORD the following four tables:

A table prepared by the Subcommittee on Appropriations of the Committee on Foreign Operations of the House of Representatives, which committee is headed by Representative OTTO E. PASSMAN, of Louisiana. It gives the new requests in the current budget for authorization and/or appropriation for foreign aid and assistance contained in the fiscal year 1974 budget document.

A table I have prepared showing the deficits in Federal funds and the interest on the national debt, 1955 to 1974, inclusive.

A table I have prepared giving the receipts and expenditures for 1968 through 1973.

A table showing the gold holdings, total reserve assets, and liquid liabilities to foreigners—which, incidentally, have increased from $15 billion in 1957 to $93 billion in July of 1973.

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

New requests for authorization and/or appropriation for foreign aid and assistance contained in the fiscal year 1974 budget document

1. Foreign Assistance Act (includes military assistance)	$2,428,850,000
2. Overseas Private Investment Corporation	72,500,000
3. Foreign Military Credit Sales	525,000,000
4. Inter-American Development Bank	693,380,000
5. International Development Association	320,000,000
6. Asian Development Bank	100,000,000
7. Asian Development Bank (proposed)	108,571,000
8. Asian Development Bank (maintenance of value)	24,000,000
9. International Development Association (maintenance of value)	161,000,000
10. Inter-American Development Bank (maintenance of value)	510,000,000
11. Internat'l Bank of Reconst. & Dev't. (maintenance of value)	774,000,000
12. International Monetary Fund (maintenance of value)	756,000,000
13. Maintenance of Value Adjustment	25,000,000
14. Receipts and Recoveries from Previous Programs	394,464,000
15. Military Assistance (in Defense budget)	1,930,800,000
16. International Military Headquarters	85,800,000
17. MAAG's, Missions and Milgroups	168,100,000
18. Permanent Military construction-Foreign Nations	190,700,000
19. Export-Import Bank, Long-term Credits	3,850,000,000
20. Export-Import Bank, Regular Operations	2,200,000,000
21. Export-Import Bank, Short-term Operations	1,600,000,000
22. Peace Corps	77,001,000
23. Migrants and Refugees	8,800,000
24. Public Law 480 (Agricultural Commodities)	653,638,000
25. Contribution to International Organizations	199,787,000
26. Education (Foreign and Other Students)	59,800,000
27. Trust Territories of the Pacific	56,000,000
28. Latin American Highway (Darien Gap)	30,000,000
Grand total	18,003,191,000

NOTE.—Total appropriation requests for maintenance of value amount to $2,250,000,000.)

DEFICITS IN FEDERAL FUNDS AND INTEREST ON THE NATIONAL DEBT, 1955-74 INCLUSIVE

[In billions of dollars]

	Receipts	Outlays	Surplus (+) or deficit (−)	Debt interest
1955	58.1	62.3	−4.2	6.4
1956	65.4	63.8	+1.6	6.8
1957	68.8	67.1	+1.7	7.3
1958	66.6	69.7	−3.1	7.8
1959	65.8	77.0	−11.2	7.8
1960	75.7	74.9	+.8	9.5
1961	75.2	79.3	−4.1	9.3
1962	79.7	86.6	−6.9	9.5
1963	83.6	90.1	−6.5	10.3
1964	87.2	95.8	−8.6	11.0
1965	90.9	94.8	−3.9	11.8
1966	101.4	106.5	−5.1	12.6
1967	111.8	126.8	−15.0	14.2
1968	114.7	143.1	−28.4	15.6
1969	143.3	148.8	−5.5	17.7
1970	143.2	156.3	−13.1	20.0
1971	133.7	163.7	−30.0	21.6
1972	148.8	178.0	−29.2	22.5
1973	161.3	186.2	−24.9	24.2
1974[1]	181.0	199.8	−18.8	27.5
20-year total	2,056.2	2,270.6	−214.4	273.4

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

Sources: Office of Management and Budget and Treasury Department.

[In billions of dollars]

	Fiscal year—						
	1968	1969	1970	1971	1972	1973	1974[1]
RECEIPTS							
Individual income taxes	69	87	90	86	95	103	116
Corporate income taxes	29	37	33	27	32	36	42
Total	98	124	123	113	126	139	158
Excise taxes (excluding highway)	10	11	10.3	10.5	9.1	9.9	9.9
Estate and gift	3	3.5	3.6	3.7	5.2	5.0	5.4
Customs	2	2.3	2.4	2.6	3.2	3.2	3.5
Miscellaneous	2.5	3.0	3.4	3.9	3.5	3.9	4.2
Total Federal fund receipts	116	143	143	134	149	161	181
Trust funds (social security, retirement, highway)	38	44	51	54	60	71	85
Total	154	188	194	188	209	232	266
EXPENDITURES							
Federal funds	143	149	156	164	178	186	200
Trust funds	36	36	40	48	54	61	69
Total	179	185	196	212	232	247	269
Unified budget surplus (+) or deficit (−)	−25	+3.1	−2	−24	−23	−15	−3
Federal funds deficit	27	6	13	30	29	25	19

[1] Estimated figures.

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

U.S. GOLD HOLDINGS, TOTAL RESERVE ASSETS, AND LIQUID LIABILITIES TO FOREIGNERS

[Selected periods in billions of dollars]

	Gold holdings	Total assets	Liquid liabilities
End of World War II	20.1	20.1	6.9
Dec. 31, 1957	22.8	24.8	15.8
Dec. 31, 1970	10.7	14.5	47.0
Dec. 31, 1971	10.2	12.2	67.8
Dec. 31, 1972	10.5	13.2	82.9
July 31, 1973	10.5	12.9	93.1

Note: Prepared by Senator Harry F. Byrd, Jr., of Virginia.

Source: U.S. Treasury Department.

Mr. AIKEN. Mr. President, the distinguished Senator from New York (Mr.

JAVITS) is on his way. Perhaps we should suggest the absence of a quorum for about a minute——

Mr. HUMPHREY. Let me use 2 or 3 minutes here to fill in the record——

Mr. AIKEN. All right.

Mr. HUMPHREY (continuing). And then after that, we can have a quorum call. There are certain items which I feel should be emphasized for the clarity of the RECORD.

In my discussion with the distinguished Senator from Idaho (Mr. CHURCH), I took issue with his claim that this was the largest foreign aid bill since 1953. I made note of the fact—and I repeat it—that he was talking of the House Committee on Appropriations on Foreign Aid, the action of that committee this year, which lumped together all the foreign ai ditems plus the emergency assistance to Israel of over $2 billion.

I do not believe that that is a fair presentation of the issue that surrounds the conference report that we have to deal with here today.

There are, indeed, many kinds of foreign aid. There are foreign aid programs on cultural exchanges, foreign aid programs on Public Law 480, and many other types of assistance that we offer the people of the world.

But this particular program we are addressing ourselves to today has its own purpose, its own programs, its own policies. We speak of it as the Foreign Assistance Act. I seek to compare apples with apples, and oranges with oranges, and not apples with oranges.

In other words, what I seek to do is to compare the Foreign Assistance Act of fiscal 1974 and 1975 with the Foreign Assistance Act for fiscal 1972 and 1973. Then we are on the same standards, and we are using the same framework around which we make our judgments.

The bill before the Senate, as a result of the conference between the House and the Senate, provides a reduction of $395,266,000, or a 15-percent reduction, below the executive branch request. That is the item that is important. There is talk here today about the spending ceiling. The President sent a suggestion to us of a spending ceiling of approximately $268 billion; but within that spending ceiling he had a foreign assistance program that was $395,266,000 more than we are authorizing in this bill.

I do not want the RECORD to be at all ambiguous or misleading as to what the facts are. The facts are that we have made a 15-percent cut in overall foreign economic assistance and military assistance below the administration's request. That is a reasonable cut; and below that authorization cut, further cuts will be made in the appropriation process.

The second item that I think is worthy of our note is that there were certain items in this bill, known as loan reflows, drawdown authority for military aid, and excess defense articles, which were not in the Senate bill. Yet, in our existing authority, under existing law, the House included those. We were in conference with the House. So we authorized the use of old reflows for a 2-year period at 50 percent of the reflow. We are indebted to the Senator from Idaho (Mr. CHURCH) for seeking to stop any use of the reflow. But I want to make it clear that what we did was to put 50 percent for a 2-year period and then no more use of the reflow.

Second, on the drawdown authority for military aid, the entire committee unanimously approved the drawdown on military supplies for Cambodia of $200 million—I do not believe there was a dissenting vote—to get that item and issue away from the emergency request the President made for Israel and Cambodia.

Under existing authority in existing law, there is this drawdown authority. In the Senate bill, we did not provide for it at all. This is the first time we updated this authority. The House bill provided $300 million; we provided nothing. So we went to a figure of $250 million to take care of the $200 million for Cambodia, which the committee felt, I believe unanimously, was the proper way to handle that matter.

Likewise, with respect to the excess defense articles, the House bill provided $185 million, and the Senate bill provided nothing.

So when we add up these items, there is $561,500,000 extra that is merely an authority. It is not a commitment to expend. It permits the use of that much for loan reflows, drawdown authority for military aid, and excess defense articles. But the administration asked for $808 million. The committee provided $561 million—that is, the conference committee. The House, by the way, agreed fully with the administration. The Senate did not provide anything. We split the difference, so to speak, between the Senate figure, which was zero, and the administration and the House figure.

So when we say that there is a billion dollars more of foreign aid in this bill than the Senate provided, may I say that the reason for it is that the Senate excluded certain sections of the authority, such as drawdown, the use of loan reflows, and excess defense articles. We cut those out completely, and the House included them. When you have to go to conference, you go to conference, and you do not always come out with what you want.

I see that the Senator from New York is in the Chamber; and as I yield the floor to him, let me once again state that this bill is $209,400,000 less in authorization than the continuing resolution appropriation for fiscal 1973. So no one can say that it is in excess of fiscal 1973, because we all know that the authorizations are generally more than the appropriations. Yet, in this bill of authorization, we are almost $210 million less than authorizations for fiscal 1974, than we are for continuing resolution appropriations for fiscal 1973.

I yield to the Senator from New York. How much time does the Senator want?

Mr. JAVITS. I would like 10 minutes.

Mr. HUMPHREY. I yield 10 minutes.

Mr. JAVITS. Mr. President, I have engaged in debates on foreign aid for something over 25 years. The arguments are always exactly the same. I have heard them many times before. So have all the Members of this body. If we have not come to the realization by now that we cannot be the richest and most powerful nation on earth and live surrounded by abject poverty, then we never will be convinced of the propriety of foreign aid, but I believe we are convinced.

The question always becomes one of degree. Lest the mote in our eye—the energy crisis and inflation—blind us to the true state of where we stand in relation to the rest of mankind, let us immediately note that more than two-thirds of the world has a standard of living which is less than one-sixth of ours. When we think of how much privation we have, let us remember that in middle Africa millions of people are literally starving. And I have witnessed this tragedy personally. Indeed, one of the bright parts of this conference report is that it recognizes starvation in the Sahile countries of Africa and the rest of the world and tries to do something about it.

Mr. President, bearing that in mind, the old question always comes up; when a man is asked how beautiful his wife is, he asks compared to whom? Compared to the rest of the world, we do not do so well. The United States comprises 6 percent of the world's population. We have 50 percent of the world's production and close to that of the world's income. But we do not even remotely meet the 1 percent of our gross national product in both public and private foreign aid which the United States committed itself to when I served as the U.S. General Assembly Delegate to the UN in 1970. But many other nations do meet this standard, and they can afford it much less than we can, based on individual income. How much domestic trouble we have is no criterion. The question is, how much trouble do others have and, relatively speaking, how well off are we?

Mr. President, our country and its people, no matter what their disposition or ideology, in the best conscience, do not want to live in isolation from the miserable problems of mankind. I think the Senator from Minnesota, the manager of this conference report, has very adequately shown that we are paying due respect to the financial condition of the country in deciding how much we shall provide for foreign aid in this bill.

Let us remember, too, Mr. President, that a great part of this aid is military aid, provided mainly because it is less costly to send military assistance to foreign nations than to spend it on ourselves. We have demonstrated that time and time again. It would be very unwise to militarize ourselves to the degree that would be necessary and it is more economical.

Mr. President, it boils down to what we can afford to contribute. No matter how difficult the situation has been in this country, for decades American families, notwithstanding whatever might be their means, have always been generous in providing something. I think we have demonstrated very conclusively that: One, we are not measuring up to the standard of the rest of the world, now adopted in an authoritative way by the United Nations; two, we are giving complete respect to our own resources in

this bill; and, three, new provisions in this bill add a new orientation to aspects of the foreign aid program and are very promising.

Mr. President, let us remember that the global figures cited in opposition to this report include an emergency resulting from a war in the Mideast which involves $2.2 billion in military aid alone. This bill represents an effort to bring about the righting of a grave crisis which resulted in serious imperilment of the economy of Europe and Japan—and damage to our own economy—as well as our effort to prevent the Soviet Union from sitting astride the Middle East and controlling its vital energy resources, which could "Finlandize" all of Europe.

These are tremendous important issues. In looking at the foreign aid bill, I hope Members will recall the towering example of statesmanship of Great Britain under Churchill, who in 1940, when he was on the threshold of being invaded by Hitler from the European continent, sent one of the two ready armed divisions in the British Isles to North Africa, knowing full well it is at such a time that one has to be bold, and that is the acid test of a nation's purposes and intentions. That is what we are faced with here.

There are some very admirable parts of the bill in addition to those already detailed by the Senator from Minnesota (Mr. HUMPHREY), and those that have been detailed by me. For example, there is a very comprehensive provision respecting world food shortages, which is an eloquent declaration of how U.S. agricultural resources should be most effectively organized, and that will have a very material and constructive effect upon the future.

There has been little notice given to a provision in this bill concerning American schools and hospitals abroad which carries the hopes and aspirations of millions of Americans who helped to finance a wide range of humanitarian activities all over the world. Let us not forget that, anyone who really investigates the situation will find that, with all our troubles, the one nation before all others that still enjoys some trust and confidence in this very beleaguered world is the United States. I heavily attribute that to the fact that the United States has always demonstrated its humanitarian interest toward the rest of mankind.

Mr. President, I wish to say that the decision of whether this Nation, compared with the rest of the world, can stand aside from the misery of mankind has to be made by every Member in his own conscience. I have made mine for over 25 years. I hope the majority of the Senate will make its determination in conscience as it always has.

It is necessary to strip the issue of all question as to whether we will vote $50 million for this item or $50 million for that, and look at the overall picture. I hope that the Senate will look at the overall picture. Senators may vote for it, but those who do not like the report will have the privilege of voting against it. That is the real issue when we get down to this last stage of consideration of the foreign aid bill.

In conclusion, I heard with the greatest interest one of my colleagues argue that we can only justify foreign aid if we can afford it.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. HUMPHREY. I yield an additional 2 minutes to the Senator from New York.

Mr. JAVITS. If we can afford it; if it would be of benefit to us.

I think that every American who has any religion in his heart—and that is practically all of America—would hang his head in shame if that were the only criterion by which we would aid hundreds of millions in the world who are in misery.

Another criterion in our country is, Do I care for my brother's welfare? If I do, what can I do to help, even if it represents some sacrifice to me? It is by that criterion that this bill should be judged. Any Senator who wants to judge the bill by the other criteria can very well vote against it. But I believe it is the latter criterion which is in the hearts and minds of the Senate, has been for years, and I know it is present now.

Mr. HUMPHREY. Mr. President, I yield 3 minutes to the distinguished Senator from Alabama.

Mr. SPARKMAN. Mr. President, I find myself in a very difficult position on this report, because the chairman of our committee has to be away today. I gave my word to him before he left that I would protect him by giving him a live pair with him. He was opposed to the report; I am in favor of it.

I simply want to say that the conference was a free and open conference. A reasonable compromise has been worked out with the House. I will ask the Senator from Minnesota if I am not correct in my understanding that the amount provided is far below the President's request.

Mr. HUMPHREY. The Senator is correct; it is about $400 million below the President's request.

Mr. SPARKMAN. It is considerably below what was actually appropriated last year?

Mr. HUMPHREY. About $210 million.

Mr. SPARKMAN. Yes. And it is one of the lowest bills, if not the lowest, since we have been handling the foreign aid program.

Mr. HUMPHREY. I think that is true.

Mr. SPARKMAN. I hope that the Senate will concur in the conference report that has been worked out reasonably and well, I think, with the House of Representatives, and certainly in relation to the President's request and with the previous history of the program.

Mr. HUMPHREY. I thank the Senator from Alabama.

Mr. President, I yield 3 minutes to the distinguished Senator from Illinois.

Mr. PERCY. Mr. President, first of all, I wish to compliment the members of the conference for coming forward with some excellent programs. First, I express appreciation to the House for receding from the original request to change the name of the agency called AID, a name which is well understood. It is symbolic of what the agency does. To change it to NBCR, with the tremendous cost that would be involved in changing the stationery and nameplates, and the like, and to go to another name, seemed to be senseless.

I appreciate the support that my motion received in the Senate markup sessions and in the conference committee for acceding to that request.

I also express appreciation to the Senator from Minnesota (Mr. HUMPHREY) for incorporating in the bill an amendment I had proposed that was accepted by the Senate—and the House receded—calling for the inclusion of women in the national economies in some countries. This would double the manpower in those countries. To deprive women of jobs and educational opportunities in developing nations is a situation which should be corrected. Certainly we ought to encourage the use of all human resources.

I was glad to see, also, the statement, under "Limiting Use of Funds for Abortions," that "This provision is not intended to interfere with or curtail support for preventive maternal and child health and family planning services and related research."

Finally, I would like to comment on the section relating to programs relating to population programs. I think the Senate figures which read $125 million in fiscal 1974 and $150 million in fiscal 1975, and the agreement worked out to increase the figure for 1975 to $130 million, are better than the original House proposal, but I tend to think that in a world now that is so conscious of energy consumption by every human being, I suppose now that it can be cloaked in the latest project and in the latest fad, so that the population control program can be wrapped up in the energy fad. The best way to reduce the requirements of energy is to work on population control throughout the world, certainly in the developing countries, which are running hard just to stand still without falling back, and population control should be a matter of the highest priority there.

I once again commend the manager of the bill and the conference committee for a very fine piece of work.

Mr. RANDOLPH. Mr. President, will the Senator yield, or does the Senator have time?

Mr. PERCY. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HUMPHREY. Mr. President, I yield 1 minute to the Senator.

Mr. RANDOLPH. I would like to say that the Senator mentioned the "energy fad." I would rather call it the energy tragedy.

Mr. PERCY. I accept completely a more apt description, but I think we have to recognize that we move in moods. We moved in the environmental mood. We had Earth Day. Now we have to be realistic about the fact that this is a hot issue today, but for a long period of time population control was a low-key study program, but there were a number of pioneers in that field, including the Ford Foundation and others.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. PERCY. And they have constructively contributed toward a resolution of that problem.

The PRESIDING OFFICER. The time has been charged equally to both sides for that interlude, since no one yielded time.

Who yields time?

Mr. AIKEN. Mr. President, does the Senator from South Dakota wish more time?

Mr. ABOUREZK. No. I am prepared to yield it back.

Mr. AIKEN. Mr. President, I yield myself 10 minutes.

Mr. President, when the economic assistance legislation was before the Senate in October, I agreed to cosponsor it because I think it is the Senate's duty to pass some legislation in the area of foreign aid.

The conference report now before the Senate is something of a minimilestone, considering the fact that similar legislation has not reached this stage of the legislative process in 2 years.

During much of that time, the entire air program has been carried along by one continuing resolution after another.

As far as I am concerned, that is no way to run a railroad, an aid program, or anything else involving the expenditure of public funds.

Accordingly, I object to settling again for a continuing resolution, which has, in the past, been the excuse for not doing our duty.

The issue remains the same now.

We should either legislate or say that it is time to liquidate our aid program.

If that is the decision of this body, then so be it. We will try to work out a new position in the world.

But I support the conference report because in this foreign policy bill are some matters of important public business, matters which indicate a new trend on our part.

In particular, I am concerned with encouraging the movement toward internationalizing the burden of reconstruction in Indochina.

In October there was a meeting in Paris of key European nations, Japan, and the United States, under the chairmanship of the World Bank, which started the process of building an international mechanism for Indochina reconstruction.

I am advised that Japan has taken a lead in this movement.

Already a significant supplier of bilateral aid to South Vietnam—$50 million this year for general imports and technical assistance—the Japanese want an international umbrella opened up over reconstruction aid to Indochina.

The World Bank has indicated that it will agree to hold the umbrella if enough nations favor it.

The French and Germans have indicated that they may be willing.

The British have already said that they are willing.

Opposition has been confined to some Scandinavian voices, a strange stand for those who usually put so much stock in international, as opposed to bilateral, assistance.

I am told that the World Bank, on its own, has decided that South Vietnam is now stable enough to warrant the extension of the World Bank credit, and that we shall soon see a credit from the Bank's International Development Association extended to the Government of South Vietnam.

There will be another meeting in March, if not sooner, out of which should emerge some formal structure.

I do not want to do anything at this time to suggest to other nations that the Congress might not be willing to contribute to such a structure if it is agreed to.

Nobody seems to talk much about Indochina these days, except perhaps to decry again our past involvement in that part of the world.

However, cutting off reconstruction aid to Indochina in order to erase the errors of the past makes no sense at all.

I am sure the American people understand why it must be a matter of honor as well as national interest to make the legitimate claims of Vietnam, Laos, and Cambodia on the international community, not just on the United States.

Congress must avoid steps that can only hamper, if not reverse the trend toward internationalizing the reconstruction problem there.

Besides, until the legitimate claims of the nations of Indochina are recognized as claims on the community of nations, not just the United States, there will be no escape from periodic renewals of the bitter and divisive debates over our past involvement in that part of the world.

Turning to the money issue, I believe this bill possibly authorizes too much for its sundry purposes, although there has been about a $400 million cut from the request of the administration.

However, I have confidence that the appropriations process will further reduce the amounts approved by the authorizing conference.

I cannot guarantee that the new labels on the aid program really mean that the contents will be new and different.

But, as I said back in September, much of the contents of this bill originated with the House Foreign Affairs Committee.

The members of that committee worked long and hard to produce something new in the field of economic assistance and got as many assurances from the administration as they could that AID, particularly, will not simply continue its practices of the past, but will leave much more of the work to private American organizations with the skills and motivations necessary to provide help where it is needed and wanted.

The Foreign Relations Committee voted to accept in large measure the work of the Committee in the House.

I am willing to let their ideas have a chance to prove themselves.

Finally, Mr. President, I submit that the matters of important public business to which this bill is related outweighed the danger that it will at the same time serve to perpetuate some past policies which ought to be terminated.

Mr. KENNEDY Mr. President, I vote in favor of the foreign aid conference report somewhat reluctantly today, because in many ways it represented a reversal of the action of the Senate to achieve substantive changes in the foreign aid program.

I am particularly concerned with the lumping together of the military and economic aid bills. The Senate passed two measures for the purpose of clearly separating out the military and economic portion of the aid package. Traditionally, we have seen the balance fall heavily on the side of military assistance. And even in this conference report, military aid represents a sizable share of the total amount authorized. In fact, when the aid for South Vietnam which under the conference report remains under the Defense Department is included, military aid again is far greater than economic assistance.

CHILE

Also I was disturbed to note the watering down of the amendment I introduced and which the Senate adopted unanimously to state the sense of the Congress that all nonhumanitarian assistance be denied the new junta until human rights of all individuals are protected

I seriously question extending direct governmental assistance, particularly military aid, to Chile while the denial of human rights continues.

However, I have been assured by the State Department that the amendment, in the form which remains, will be enforced and that the President will make such requests to the Government of Chile. I shall continue to follow this matter closely.

FOREIGN AID INNOVATION

Finally, let me emphasize that the conference report contains many innovative improvements in the economic aid program, particularly the concentration of resources on the problems of the poorest nations and on the marginal sectors of the population in those countries. In the past economic assistance programs have done far too little in benefiting the poorest sectors of the populations of developing countries.

Also, it is my understanding that the House conferees have agreed that this is the last time the two bills will be combined. This will enable us in the future to look with much greater scrutiny at the legitimacy of the military aid programs, particularly the military assistance groups whose main function appears to be in serving as worldwide weapons salesmen. In existing law, that program was to be phased out. I would hope we could move in that direction in the near future.

In addition, the bill does contain a break with the past in its final elimination of public safety programs. These programs, in Brazil, South Vietnam, and elsewhere have become tangible evidence of direct U.S. support for the more repressive aspects of these governments. Even when there is no actual connection, the very existence of these groups provides a wealth of material for anti-U.S. propaganda.

INDOCHINA AID

Mr. President, I am also troubled by the language, as well as the amount of assistance, the conference report authorizes for the countries of Indochina. I regret that the Senate conferees receded

from my amendments changing the language of the authorization which stressed humanitarian aid, and deleted the earmarking of modest funds for the international relief effort of Indochina operations group of the International Red Cross.

Frankly, the record of this administration in the use of, and priorities for, American aid to Indochina is cause for deep concern. The original proposal of the administration provided only cosmetic changes in the quality, quantity, and purpose of American aid to Indochina. Especially for South Vietnam, last year's pacification funds became this year's request for reconstruction and humanitarian assistance. Last year's public safety programs were simply shifted to other quarters. Last year's supporting assistance became this year's stabilization fund. And the commercial import program, which helped create Saigon's Honda economy, suddenly is now considered to be a humanitarian program.

But it will take more than a change of labels for American aid to Indochina to become humanitarian. Every indicator strongly suggests that the administration is still prepared to continue our client relationships with Saigon, Vientiane, and Phnom Penh, and our direct involvement in the confrontations among political elements throughout the area.

Mr. President, the cease-fire agreement in Indochina provides the United States with its first opportunity in over a decade to change the character of our involvement, to reorder our priorities, to embark on new policies, and to finally practice some lessons from the failures and frustrations of the past. Our future aid to Indochina should encourage this transition—from providing military aid to fuel war, to humanitarian aid to help heal the wounds of war. We should also begin a transition in our direct, bilateral aid, to multilateral aid—using, to the maximum extent practicable, the fine services of international humanitarian organizations and voluntary agencies.

This was the purpose of my amendments: To emphasize this transition and to write it firmly into law. The current "general authority" in section 801 of the conference report does include the word "especially" for humanitarian assistance for refugees, civilian war casualties, and other persons disadvantaged by hostilities. But I doubt that this wording will be sufficient to substantively change the character of our aid to Saigon, or to turn around the basic priority of our aid mission toward general economic assistance rather than humanitarian aid.

The record to date—and the budget announced for the coming year—indicates that the humanitarian side of our aid program is being sharply cut back, even as the total amount of aid authorized is greater than that now available under the continuing resolution. For example, the public health budget for South Vietnam—which benefits refugees and civilian war casualties—is being nearly phased out. The refugee budget has been reduced, far more than comparable cuts in the commercial import program or other aid projects.

Proposals of the voluntary agencies—truly modest amounts—for aid to war orphans and for child welfare programs in South Vietnam, sit on the desk of our aid mission officials unsigned.

The total humanitarian assistance side of the aid request is only $85 million out of the authorized total of $504 million—in other words, less than 6 percent of our aid goes for purely humanitarian purposes.

Exactly how this can be considered aid "especially" for refugees and war victims, is hard to understand, and even harder to accept.

Clearly, the thinking of a wartime bureaucracy, preoccupied with how to maximize American influence and presence, still dominates our policy and aid programs in Indochina—even under today's new conditions and new rhetoric. Offers of international assistance—even for humanitarian purposes—are all but ignored. Recently, a study mission of the refugee subcommittee visited a number of capitals, and held lengthy discussions with officials of various governments and international organizations. And I can report today that the study mission returned greatly encouraged over the possibilities for an international humanitarian alliance for Indochina, if only the United States will support it.

The record is clear that a number of governments are prepared to support and contribute to humanitarian programs under international auspices.

In fact a number of governments have already earmarked funds for this purpose. The record is clear that Unicef is prepared to move at a moment's notice. The record is clear that the Indochina operations group of the International Red Cross—and many voluntary agencies—are prepared to upgrade and expand their efforts. But the record is also clear that not much word of encouragement or support—let alone any initiative—have come from our Government—or from its counterparts in Saigon, Vientiane, or Phnom Penh. And so we are needlessly locked into the tired patterns and policies of the past.

Mr. President, the United States is no longer directly involved in Indochina, and the countries of the region are clearly in a period of transition—difficult and violent still—but nonetheless a period of change.

Yet, this transition is not clearly reflected in this administration's announced plans for U.S. assistance to the area, nor is it seen in this conference report.

BUREAU OF HUMANITARIAN AND SOCIAL SERVICES

Mr. President, I also regret that the conference report dropped the Senate amendment establishing a Bureau of Humanitarian and Social Services within the Department of State.

As the amendment stated, the bureau would:

Provide continuing guidance and coordination to policies, activities, and programs within the executive branch relating to humanitarian assistance for refugees and victims of natural disaster, migration and visa affairs, international human rights, liaison with the United Nations and other appropriate international agencies or non-governmental organizations, and such other humanitarian and social affairs as the Secretary of State may prescribe.

Mr. President, a very important part of our foreign relations, and assistance programs overseas, involves humanitarian issues and American support of international efforts in behalf of human rights and for refugees, migration, and disaster relief. Increasingly, international humanitarian issues mark the day-to-day work of our diplomats.

Many recent examples come to mind—the movement and resettlement of Soviet Jews, the continuing problems of Arab refugees, and the programs in Africa and Europe and Latin America of the United Nations High Commissioner for Refugees (UNHCR). There are human rights problems in Chile, the Soviet Union, and elsewhere, and in recent years there were manmade disasters in Bangladesh and Nigeria—and national disasters in the Philippines and other countries.

Direct expenditures for humanitarian programs overseas total at least $500 million annually. Unfortunately, the current administration of these efforts is hydra-headed and diffuse, which too often fosters neglect and indecision where action is needed.

Our country can no longer afford this approach. For in today's world, people problems are at the heart of too many international issues—and, on both humanitarian and political grounds—they increasingly demand high-level leadership and concern, by our own country and the international community.

Mr. President, the Judiciary Subcommittee on Refugees, which I serve as chairman, has closely followed for several years our country's response to human tragedy in the world—and the subcommittee has long advocated the creation of a bureau to better coordinate and implement American policies and programs.

Other committees in the Congress, including the Committee on Foreign Relations have also recognized the need in this area—and the committee's original report on this bill urged some administrative action by the President, in line with his previous foreign aid recommendations to the Congress. I should also add, that America's voluntary agencies—who often are the link between U.S. humanitarian programs and people in need—fully support the creation of a Bureau of Humanitarian and Social Services.

That is why, Mr. President, it is so regrettable that the conference report has dropped this provision. However, in light of the long-recognized need to better coordinate and implement our country's humanitarian policies and programs overseas, I am extremely hopeful that some administrative action will be taken this year in this area.

THE FOREIGN AID CONFERENCE REPORT—WHY THE SENATE SHOULD REJECT IT

Mr. BAYH. Mr. President, as a strong supporter of a reasonable foreign aid program, I am deeply disturbed by the actions of the conference committee in distorting the Senate's original decisions.

In these times of budgetary crunch, when worthwhile domestic programs are competing for limited dollars and being cut back as a result, I don't believe we can afford the profligate luxury of an additional $1 billion in foreign aid spending. And certainly not a $200 million rush job for Cambodia—without any hearings or any committee votes.

The details of the conference committee's actions in taking two separate bills—one dealing with military sales and assistance and the other with loans and grants for economic assistance—have been explained. Suffice it to say, it is an unacceptable procedure to combine the two and in the process produce a hybrid that drastically alters the original intent of the Senate.

Mr. President, there are a great many very worthwhile items in this bill, items that I wholeheartedly support. The assistance programs for Israel, for example, are extremely important in light of all that is involved.

I want a foreign aid bill as much as my colleague from Minnesota, but not at this price. The conference committee has acted unwisely. A bill that more accurately reflects the Senate's action, I am convinced, would be favorably received.

Mr. President, in voting to reject the conference report, I am not voting against foreign aid. On the contrary, my vote to reject is based upon a hope that the bill will be sent back to conference and resubmitted to the Senate without these clearly objectionable add-ons. In that way, we will have not merely a foreign aid bill, but a good foreign aid bill.

Mr. AIKEN. Mr. President, are there any further requests for time?

The PRESIDING OFFICER. Who yields time?

Mr. AIKEN. Mr. President, if there are no further requests for time, and the Senator from Minnesota is ready to yield back his time, I yield back my time.

Mr. ABOUREZK. Mr. President, if the Senator from Vermont is prepared to yield back his time, I will yield back the remainder of my time.

Mr. AIKEN. Mr. President, the Senator from Minnesota is willing that his time be yielded back. He has not much time to yield back.

Mr. JAVITS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Minnesota has 4 minutes remaining.

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

Mr. HUMPHREY. Mr. President, if the debate has concluded, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the conference report. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SPARKMAN (when his name was called). On this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote, "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. METCALF (after having voted in the affirmative). On this vote I have a pair with the Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote, "nay." If I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that if present and voting, the Senator from Wyoming (Mr. MCGEE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The result was announced—yeas 44, nays 41, as follows:

[No. 556 Leg.]

YEAS—44

Aiken	Griffin	Percy
Bartlett	Gurney	Ribicoff
Beall	Hart	Saxbe
Bellmon	Hathaway	Schweiker
Bennett	Hruska	Scott, Hugh
Bentsen	Humphrey	Stafford
Brooke	Jackson	Stennis
Buckley	Javits	Stevens
Case	Kennedy	Taft
Cotton	Mathias	Thurmond
Domenici	Mondale	Tower
Dominick	Montoya	Tunney
Eastland	Moss	Weicker
Fong	Muskie	Williams
Gravel	Pearson	

NAYS—41

Abourezk	Cranston	McClellan
Allen	Dole	McClure
Bayh	Eagleton	McGovern
Bible	Ervin	Nelson
Biden	Fannin	Nunn
Brock	Hansen	Pastore
Burdick	Haskell	Proxmire
Byrd, Harry F., Jr.	Hatfield	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Hollings	Scott, William L.
Chiles	Huddleston	Stevenson
Church	Johnston	Young
Clark	Long	
Cook	Magnuson	
	Mansfield	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Metcalf, for
Sparkman, for

NOT VOTING—13

Baker	Hughes	Pell
Curtis	Inouye	Symington
Fulbright	McGee	Talmadge
Goldwater	McIntyre	
Hartke	Packwood	

So the conference report was agreed to.

Mr. HUMPHREY. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HUGH SCOTT. Mr. President, I am glad that this measure has been acted on, and acted on favorably. I think it is worth note that the decision was certainly aided by strong administration support, and I am very glad that that was available when needed. I may say that I, personally, deeply appreciate it.

COMPREHENSIVE MANPOWER ACT OF 1973

Mr. NELSON. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1559.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendment of the House of Representatives to the bill (S. 1559) to provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes" which were to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Comprehensive Manpower Act of 1973".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to promote maximum employment opportunities by establishing a flexible and decentralized system of Federal, State, and local programs providing job training and employment opportunities for economically disadvantaged, unemployed, and underemployed persons.

TITLE I—COMPREHENSIVE MANPOWER SERVICES

DESCRIPTION OF PROGRAM

SEC. 101. It is the purpose of this title to establish a program to provide comprehensive manpower services throughout the Nation. Such program shall include the development and creation of job opportunities and the training, education, and other services needed to enable individuals to secure and retain employment at their maximum capacity. Comprehensive manpower services may include, but shall not be limited to, programs and activities designed to carry out the purpose of this title, such as:

(1) outreach to make persons aware of the availability of manpower services and persuade them to use such services,

(2) assessment of the individual and his potential in the labor market and referral to appropriate employment, training, or other opportunities,

(3) orientation, counseling, education, and institutional skill training to prepare the individual to enter the labor market or to qualify for more productive job opportunities,

(4) training on the job,

(5) payments or other inducements to public or private employers to expand job opportunities, but payments to employers organized for profit shall not exceed the difference between the costs of recruiting, training, and providing supportive services for low-income persons and those regularly employed,

(6) services to individuals to enable them to retain employment,

(7) payment of allowances to persons in training for which they receive no remuneration and payment of such allowances for transportation, subsistence, or other expenses incurred in participating in manpower services or employment as are necessary to enable the individual to participate therein,

(8) supportive services to enable individuals to take advantage of employment opportunities, including necessary health and medical services, child care, residential support, assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment or manpower services,

(9) development of information concerning the labor market and activities, such as job restructuring, to make it more responsive to objectives of the manpower services program,

(10) any programs authorized by part A of title III and by title VI of this Act, and

(11) transitional public service employment programs.

PRIME SPONSORS

SEC. 102. (a) The Secretary may make financial assistance available to a prime sponsor to enable him to carry out all or a substantial part of a comprehensive manpower program. A prime sponsor shall be—

(1) a State; or

(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary or which does not meet such population criteria and which has the largest population of a unit of general local government in the State; or

(3) any combination of units of general local government which includes any unit of general local government qualifying under (2) above; or

(4) any unit or voluntary combination of units of general local government, without regard to population, in rural areas as determined by the Secretary which have substantial outmigration and high unemployment; or

(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have demonstrated special capabilities for carrying out programs in such areas and are designated by him for that purpose.

(b) (1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), or (5) unless such prime sponsor has not submitted an approvable comprehensive manpower plan for such area.

(2) A unit of general local government shall not qualify as a prime sponsor with respect to any area within the jurisdiction of another eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive manpower plan for such area.

(c) (1) To be eligible for prime sponsorship for any fiscal year, an otherwise eligible applicant must submit to the Secretary a notice of intention to apply for prime sponsorship by such date as the Secretary shall prescribe.

(2) The Secretary may not, prior to March 1, 1974, designate as a prime sponsor, any State or unit of general local government containing another unit of general local government meeting the requirements of subsection (a) (3) above unless such smaller unit has submitted to the Secretary written consent for such designation.

CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

SEC. 103. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor submits a comprehensive manpower plan, in such detail as the Secretary deems necessary, which—

(1) sets forth a comprehensive manpower program which meets the purpose of this title, including (A) a description of the services to be provided, (B) assurance that such services will be administered by or under the supervision of the prime sponsor, (C) a description of the geographical areas to be served under the plan, and (D) assurances that to the maximum extent feasible manpower services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(2) provides, in the case of prime sponsors who are recipients of funds under title II for the development of a public service employment program, that it is fully integrated with the services under this title in order to assure that persons employed in such a program are afforded a better opportunity to find regular employment not supported under this Act;

(3) (A) provides appropriate arrangements with community-based organizations serving the poverty community, and other special target groups for their participation in the planning of programs included in the plan; (B) provides for utilizing, to the extent deemed appropriate by the prime sponsor, those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages; (C) provides that in making arrangements for institutional training priority shall be given (to the extent feasible) to the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962; (D) provides arrangements to the extent feasible for the coordination of services for which financial assistance is provided under programs administered by the Secretary of Labor relating to manpower and manpower-related services;

(4) provides for paying the allowances and compensation provided by section 109;

(5) provides that any transitional public service employment programs meet the requirements of section 204(b) and section 207, and that persons hired to fill jobs created by such programs will be residents of the areas described under paragraph (1)(C).

(b) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless such sponsor certifies that—

(1) its plan meets all the requirements of this section, and

(2) it will comply with all provisions of this Act.

SPECIAL REQUIREMENTS FOR STATE PRIME SPONSORS

SEC. 104. (a) Any State seeking assistance under this Act shall submit a State comprehensive manpower plan to the Secretary for approval in accordance with the requirements of this section.

(b) The State comprehensive manpower plan shall in addition to meeting the requirements of section 103—

(1) provide satisfactory arrangements for serving all geographical areas under its jurisdiction except areas served by an eligible applicant who has filed a notice of intent under section 102(c), except that such plan may be amended to include areas served by an eligible applicant whose plan is finally disapproved without prejudice to the remedies available to such eligible applicant under section 107;

(2) provide for the cooperation and participation of all State agencies providing manpower and manpower-related services in the implementation of comprehensive manpower services plans by prime sponsors in accordance with the provisions of this Act;

(3) set forth an overall State plan for the development and sharing of resources and facilities needed to conduct manpower programs under its direct sponsorship without unnecessary and economical manner;

(4) provide for the coordination of programs financed under the Wagner-Peyser Act in accordance with such rules, regulations, and guidelines as the Secretary determines necessary for the purpose of providing coordinated and comprehensive assistance to those individuals requiring manpower and manpower-related services to achieve their full occupational potential in accordance with the policies of this Act;

(5) make adequate provision for the coordination of the manpower and related services to be provided by the State in areas to be served by prime sponsors other than the State, and that provision has been made for the establishment of a mechanism to (A) provide for the exchange of information between States and local governments on State and regional planning in areas such as economic development, human resource development, education, and such other areas that may be relevant to manpower planning; and (B) promote the coordination of all manpower plans in a State so as to eliminate conflict, duplication, and overlapping between manpower services.

(c) The prime sponsor shall annually certify compliance with all the requirements for State prime sponsors.

STATE MANPOWER SERVICES COUNCIL

SEC. 105. (a) (1) Any State which desires to be designated as a prime sponsor and to enter into arrangements with the Secretary under this title shall establish a Manpower Services Council (hereinafter referred to as the "Council") which shall exercise the powers and duties set forth in this section.

(2) The Council established pursuant to paragraph (1) shall—

(A) be appointed by the Governor (who shall designate one member thereof to be Chairman), and shall be composed of—

(i) representatives of the units or combinations of units of general local government in such State, who shall comprise at least one-third of the membership of the Council, which have a comprehensive manpower plan approved under section 106 (except that the initial appointments to the Council may consist of representatives of units or combinations of units of general local government described in clauses (2), (3), (4), and (5) of section 102(a) which have indicated an intention to submit a plan for approval under section 106), and such representatives shall be designated by the chief executive officers of the units or combination of units of general local government which qualify for representation under this section in accordance with procedures agreed upon by such chief executive officers;

(ii) one representative each of the State board of vocational education and the public employment service of such State;

(iii) one representative of each such other State agency as the Governor may determine to have a direct interest in overall manpower training and utilization within the State;

(iv) representatives of organized labor;

(v) representatives of business and industry;

(vi) representatives of the client community to be served under this Act (including,

where persons of limited English-speaking ability represent a substantial portion of the client population, appropriate representation of such persons); and

(vii) representatives of the general public.

(B) be appropriately staffed and serviced by the State prime sponsor;

(C) meet at such times and in such places as it deems necessary.

(b) The Council shall—

(1) review the plans of each prime sponsor and the plans of State agencies for the provision of services to such prime sponsors, and make recommendations to such prime sponsors and agencies for the more effective coordination of efforts to meet the overall manpower needs of the State;

(2) continuously monitor the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing manpower services, and to the Governor and the general public with respect to ways to improve the effectiveness of such programs or services in fulfilling the purposes of this Act;

(3) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act.

APPROVAL OF PLANS

SEC. 106. (a) The Secretary shall not approve a comprehensive manpower plan or any amendment thereto until he determines that it meets the requirements of section 103, and in the case of a State plan section 104, and that the plan was submitted to, and an opportunity to comment thereon provided, the Governor of the State and appropriate officials in units of general local government of the area to be served.

(b)(1) The Secretary shall not finally disapprove any comprehensive manpower plan submitted under this title, or any modifications thereof, without first affording the prime sponsor submitting the plan reasonable notice and opportunity for a hearing.

(2) If the Secretary receives a formal allegation from an affected unit of general local government that a prime sponsor has changed its comprehensive manpower plan so that it no longer complies with section 103 or that in the administration of the plan there is a failure to comply substantially with any such provision, with any provision of the plan, or with any requirements of section 403 or 404, he shall, and, if he receives such an allegation from any other interested person, he may, after due notice and opportunity for a hearing to the prime sponsor, determine whether the allegation is true. If he determines such an allegation to be true, the Secretary shall notify the prime sponsor that no further payments will be made to the prime sponsor under the plan (or, in his discretion, that further payments will be limited to programs under or portions of the plan not affected by such failure), until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such sponsor under the plan (or shall limit payments to programs under the plan not affected by the failure).

(c) The Secretary shall not disapprove any plan solely because of the percentage of funds devoted to a particular program or activity authorized under section 101 of this Act.

JUDICIAL REVIEW

SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the approval of its comprehensive manpower plan submitted under section 103 or section 104 or with his final action under section 106, such prime sponsor may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. Thereupon the Secretary shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereuon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AUTHORITY OF SECRETARY TO PROVIDE SERVICES

SEC. 108. In any area of a State which has not qualified as a prime sponsor and for which no other prime sponsor has qualified under paragraph (2), (3), (4), or (5) of section 102(a) or where the Secretary has taken an action under subsection (b)(2) of section 106 which results in such services not being provided in such area, the Secretary is authorized (out of the funds allotted to such State or local area under section 503 (a)) to provide directly the services authorized under this Act, and he may utilize any unit (or combination of units) of general local government, and any other public and private agencies, institutions, and organizations, in providing such services.

ALLOWANCES

SEC. 109. (a) Basic weekly allowances for individuals receiving training or education under this title for which no wages are payable shall be at a rate prescribed by the Secretary which when added to amounts received by the trainee in the form of unemployment compensation payments shall equal the minimum wage for a work week of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law, and such basic allowances shall, in the case of an individual with dependents, be increased by $5 a week for each dependent over two up to a minimum of four additional dependents. The prime sponsor may waive the payment of all or part of the allowances when it determines, under regulations prescribed by the Secretary, that such waiver will promote the purposes of this Act. Trainees receiving public assistance or whose needs or income are taken into account in determining such public assistance payments to others, shall receive an incentive allowance of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance payments under Federal or federally assisted public assistance programs. In prescribing allowances, the prime sponsor shall, in accordance with regulations prescribed by the Secretary, allow additional sums for special circumstances such as exceptional expenses incurred by trainees, including but not limited to meal and travel allowances, or he may reduce such allowances by an amount reflecting the fair value of meals, lodging, or other necessaries furnished to the trainee. The prime sponsor shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. Notwithstanding the preceding provisions of this subsection, the prime sponsor shall, in accordance with such regulations as the Secretary shall prescribe, make such adjustments as he deems appropriate in allowances which would otherwise be payable under this title, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) Individuals receiving training on the job shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, and trainee proficiency, but in no event at a rate less than that specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State or local minimum wage law.

SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

SEC. 110. (a) The Secretary shall make grants to State vocational education boards to assist them to provide needed vocational education services in areas served by local prime sponsors as defined in section 102(a)(2), (3), (4), or (5).

(b) All of the sums available to carry out this section shall be allotted among the States in the manner provided for allotting funds under section 503.

(c) Funds available to State vocational education boards under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an agreement between the State vocational education board and the local prime sponsor.

TITLE II—PUBLIC EMPLOYMENT PROGRAMS

STATEMENT OF PURPOSE

SEC. 201. It is the purpose of this title to provide unemployed persons with transitional employment in jobs providing needed public services in areas of substantial unemployment and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this title.

FINANCIAL ASSISTANCE

SEC. 202. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this title in order to make financial assistance available in areas of substantial unemployment for the purposes of providing transitional employment for unemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this title.

(b) Of the funds appropriated pursuant to this title which are used by an eligible applicant for public employment programs, not less than 90 per centum shall be expended only for wages and employment benefits to persons employed in public service jobs pursuant to this title.

ELIGIBLE APPLICANTS

SEC. 203. (a) Financial assistance under this title may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) prime sponsors qualified under title I;

(2) any unit of general local government

having a population of 50,000 or more persons;

(3) any combination of units of general local government which has an aggregate population of 50,000; or

(4) Indian tribes on Federal or State reservations and which include areas of substantial unemployment.

(b) For fiscal year 1974 only, eligible applicants shall include any entity eligible to be a prime sponsor under section 102(a).

(c) For the purpose of this Act "areas of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has a rate of unemployment equal to or in excess of 7 per centum for three consecutive months as determined by the Secretary. Determinations concerning the rate of unemployment shall be made by the Secretary at least once each fiscal year.

(d) Whenever the Secretary makes any determination required by this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

APPLICATIONS

SEC. 204 (a) Financial assistance under this title may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this title. Any such application shall set forth a public service employment program designed to provide employment, in jobs providing needed public services, for persons residing in areas of substantial unemployment who have been unemployed for at least thirty days and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this title.

(b) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or institution designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that only persons residing within the areas of substantial unemployment qualifying for assistance will be hired to fill jobs created under this title, and that the public services provided by such jobs shall, to the extent feasible, be designed to benefit the residents of such areas;

(4) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved, whether in the public or private sector of the economy. (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(5) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have been discharged under conditions other than dishonorable); and that the applicant shall (A) make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans) or carried out by other public or private organizations or agencies;

(6) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(7) assurances that special consideration in filling transitional public service jobs will be given to unemployed persons who are the most severely disadvantaged in terms of the length of time they have been unemployed and their prospects for finding employment without assistance under this title, but such special consideration shall not authorize the hiring of any person when any other person is on layoff from the same or any substantially equivalent job;

(8) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(9) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(10) a description of unmet public service needs and a statement of priorities among such needs;

(11) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(12) the wages or salaries to be paid persons employed in public service jobs under this title and a comparison with the wages paid for similar public occupations by the same employer;

(13) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(14) the planning for and training of supervisory personnel in working with participants;

(15) a description of career opportunities and job advancement potentialities for participants;

(16) assurances that procedures established pursuant to section 206 will be complied with;

(17) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this title who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(18) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed persons;

(19) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(20) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13 (a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances;

(21) a description of the manpower needs of local governments and of local education agencies within the area to be served together with the comments of such governments and agencies where appropriate, and assurances that due consideration be given to allocating jobs to such governments and agencies where the evidence of need warrants it;

(22) assurances that the jobs in each job category in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service jobs not subsidized under this title, and assurances that no job will be filled in other than an entry level position until applicable personnel procedures and collective bargaining agreements have been complied with;

(23) assurances that jobs funded under this title are in addition to those that would be funded by the sponsor in the absence of assistance under this Act; and

(24) such other assurances, arrangements, and conditions, consistent with the provisions of this title, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 205. An application, or modification or amendment thereof, for financial assistance under this title may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this title;

(2) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and the Secretary;

(3) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary; and

(4) where a labor organization represents employees who are engaged in similar work in the same area to that proposed in the application, an opportunity has been provided such organization to submit comments with respect to the application to the applicant and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 206. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this title to assure that in the event that any person employed in a public service job under this title and the reviewing agency find that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) Where the Secretary determines that an Indian tribe on a Federal or State reservation is unable to submit an application to carry out a public service employment program which meets the requirements of section 204, the Secretary shall assist such tribe in preparing, submitting, and implementing a public service employment program. The provisions of section 207 shall apply to programs carried out under this subsection.

SPECIAL PROVISIONS

SEC. 207. (a) The Secretary shall not provide financial assistance for any program or

activity under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such title applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this title will not be used to pay persons employed in public service jobs under this title at a rate in excess of $10,000 per year;

(4) all persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) no funds under this title will be used for the acquisition of, or for the rental or leasing of supplies, equipment, materials, or real property; and

(8) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this title, the Secretary shall make financial assistance under this title available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this title among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this title, such organization shall be notified and afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this title have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(e) The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this title and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis, and shall include such information in the report required by section 208 of this title.

(f) The Secretary shall not provide financial assistance for any program under this title unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(g) The Secretary shall not provide financial assistance for any program under this title which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(h) The Secretary shall not provide financial assistance for any program under this title unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

SPECIAL REPORT

SEC. 208. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this title, including information derived from evaluations required by this title and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, (2) segments of the population of unemployed persons are provided public service opportunities in accordance with the purposes of this title.

UTILIZATION OF FUNDS

SEC. 209. Funds available under this title to an eligible applicant may, at its option, be utilized for residents of the areas of substantial unemployment designated under this title for programs authorized under titles I and III—A of this Act.

TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

PART A—SPECIAL TARGET GROUPS

SPECIAL MANPOWER TARGET GROUPS

SEC. 301. (a) The Secretary shall use funds available under this title to provide additional manpower services as authorized under titles I and II to segments of the population that are in particular need of such services, including youth, persons in correctional institutions, persons of limited English-speaking ability, older workers, and other persons which the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(b) With respect to programs for persons of limited English-speaking ability referred to in subsection (a), the Secretary shall establish appropriate procedures to insure that participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability.

INDIAN MANPOWER

SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian and Alaskan native communities; (2) there is a compelling need for the establishment of comprehensive manpower training and employment programs for members of those communities; (3) such programs are essential to the reduction of economic disadvantage among individual members of those communities and to the advancement of economic and social development in those communities consistent with their goals and life styles.

(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals and to other groups and individuals of native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska; (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

(c) In carrying out his responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes bands or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688) having a governing body for the provision of manpower services under this title. When the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive manpower program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provisions of manpower services under this section, he shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian manpower programs authorized under this Act.

(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible applicants under other provisions of this Act.

(g) For the purpose of carrying out this section, the Secretary shall reserve not less

than that proportion of the total amounts available for carrying out titles I and III of this Act as is equivalent to that proportion which the total number of Indians and Alaska natives bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary.

(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

MIGRANT AND SEASONAL FARMWORKER MANPOWER PROGRAMS

SEC. 303. (a) The Congress finds and declares that—

(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural manpower problem and substantially affects the entire national economy;

(2) because of the special nature of certain farmworker manpower problems, particularly those which are interstate in nature, such programs can best be administered at the national level.

(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out by eligible applicants under other provisions of this Act.

(2) For the purpose of carrying out this section, the Secretary shall reserve not less than that proportion of the total amounts available for carrying out this Act as is equivalent to that proportion which the total number of persons in migrant farmworker families bears to the total number of low-income persons, as determined for the United States on the basis of the most satisfactory current data and estimates available to the Secretary: *Provided, however,* That not more than 5 per centum of the funds available shall be so reserved. For the purposes of this section, persons shall be deemed to continue to be members of migrant and seasonal farmworker families for such period of time, not in excess of five years, as the Secretary may determine, in accordance with regulations which he shall prescribe, that such persons generally can benefit from the special programs authorized by this part.

TRANSFER OF JOB CORPS

SEC. 304. (a) Part A of title I of the Economic Opportunity Act of 1964 is amended by striking out "Director" each place it appears and inserting in lieu thereof "Secretary of Labor", and section 102 thereof is amended by striking out "the Office of Economic Opportunity" and inserting in lieu thereof "the Department of Labor".

(b) Title I–A of the Economic Opportunity Act of 1964 as amended by subsection (a) is transferred to this Act and designated as title VI thereof with section numbers (and cross references) renumbered accordingly.

(c) The powers of the Director of the Office of Economic Opportunity under sections 602(h), 602(i), and 602(m)(2) of the Economic Opportunity Act of 1964 are hereby made applicable to the powers and duties of the Secretary of Labor in administering title VI of this Act.

YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

SEC. 305. (a) The Secretary may provide financial assistance in urban and rural areas, including areas having large concentrations or proportions of low-income, unemployed persons, and rural areas having substantial outmigration to urban areas, for comprehensive work and training programs, and necessary supportive and follow-up services, including the following:

(1) programs to provide part-time employment, on-the-job training, and useful work experiences for students from low-income families who are in the ninth through twelfth grades of school (or are of an age equivalent to that of students in such grades) and who are in need of the earnings to permit them to resume or maintain attendance in school;

(2) programs to provide unemployed, underemployed, or low-income persons (aged sixteen and over) with useful work and training (which must include sufficient basic education and institutional or on-the-job training) designed to assist those persons to develop their maximum occupational potential and to obtain regular competitive employment;

(3) jobs for economically disadvantaged youths during the summer months;

(4) special programs which involve work activities directed to the needs of those chronically unemployed poor who have poor employment prospects and are unable, because of age, lack of employment opportunity, or otherwise, to secure appropriate employment or training assistance under other programs, and which, in addition to other services provided, will enable such persons to participate in projects for the betterment or beautification of the community or areas served by the program;

(5) special programs which provide unemployed or low-income persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community area served.

(b) To the maximum extent feasible, programs or components of programs conducted under this section shall be linked to comprehensive work and training programs conducted by prime sponsors under title I of this Act, but the Secretary may provide financial assistance to a public agency or private organization other than a prime sponsor to carry out one or more component programs described in subsection (a) when he determines, after soliciting and considering comments of the appropriate prime sponsor, if any, that such assistance would enhance program effectiveness. In the case of programs under subsection (a)(1) of this section, financial assistance may be provided directly to local or State education agencies, after consultation with the Secretary of Health, Education, and Welfare, for the operation of such programs.

CONSULTATION WITH SECRETARY OF HEALTH, EDUCATION, AND WELFARE

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare, with respect to arrangements for basic education and vocational training for individuals under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of State educational agencies with respect to such education and training. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, he shall obtain the approval of the Secretary of Health, Education, and Welfare for such arrangements.

PART B—RESEARCH, TRAINING, AND EVALUATION

SEC. 307. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of manpower research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's manpower problems. This program will include, but not be limited to, studies, the findings of which may contribute to the formulation of manpower policy; development or improvement of manpower programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective manpower development, training, and utilization; improved national, regional, and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of manpower shortages; easing of the transition from school to work, from one job to another, and from work to retirement, opportunities and services for older persons who desire to enter or reenter the labor force, and for improvements of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the manpower, employment, and training problems, however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or with wages less than those established by the Fair Labor Standards Act of 1938, as amended, for employment subject to that Act. In carrying out this subsection with respect to programs designed to provide employment and training opportunities for low-income people, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(c) The Secretary shall conduct such research and investigations as give promise of furthering the objectives of this Act either directly or through grants, contracts, or other arrangements.

LABOR MARKET INFORMATION AND COMPUTERIZED JOB BANK

SEC. 308. (a) The Secretary of Labor shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, including but not limited to information regarding—

(1) the nature and extent of impediments to the maximum development of individual employment potential including the number and characteristics of all persons requiring manpower services;

(2) job opportunities and skill requirements;

(3) labor supply in various skills;

(4) occupational outlook and employment trends in various occupations; and

(5) in cooperation and after consultation with the Secretary of Commerce, economic and business development and location trends.

(b) The Secretary may develop and establish a computerized job bank program for the purpose of—

(1) identifying sources of available manpower supply and job vacancies;

(2) providing an expeditious means of matching the qualifications of unemployed, underemployed, and disadvantaged persons with employer requirements and job opportunities on a national, State, local, or other appropriate basis;

(3) referring and placing such persons in jobs; and

(4) distributing and assuring the prompt and ready availability of information concerning manpower needs and resources to employers, employees, public and private job

placement agencies, and other interested individuals and agencies.

Maximum effective use shall be made of electronic data processing and telecommunications systems in the development and administration of the program. The program established under this part shall be coordinated with the comprehensive manpower services program established under title I.

(c) For the purpose of carrying out the program established in subsection (b), the Secretary is authorized to make grants to State or local agencies for the planning and administration of the program, including the purchase or other acquisition of necessary equipment. The Secretary may conduct the program on a regional or interstate basis either directly or through grants, contracts, or other arrangements with public or private agencies and organizations. He may also conduct the program when he finds that a State or local program will not adequately serve the purposes of this part. The Secretary may require that any information concerning manpower resources or job vacancies utilized in the operation of job-bank programs financed under this part be furnished to him at his request. He may, in addition, require the integration of any information concerning job vacancies or applicants into a job-bank system assisted under this part.

(d) To assure the effectiveness of the program provided for in this section, the Secretary shall develop an early warning system and standby capability that will assure a timely and adequate response to economic dislocations arising from changing markets, rapid technological change, plant shutdowns, or business failure.

(e) Information collected under this section shall be developed and made available in a timely fashion to meet in a comprehensive manner the needs of public and private users, including the need for such information in recruitment, counseling, education, training, placement, job development, and other appropriate activities under this Act and under the Economic Opportunity Act, the Social Security Act, the Public Works and Economic Development Act of 1965, the Wagner-Peyser Act, the Vocational Education Act of 1963, the Vocational Rehabilitation Act, the Demonstration Cities and Metropolitan Development Act of 1966, and other relevant Federal statutes.

EVALUATION

SEC. 309. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost in relation to their effectiveness in achieving stated goals, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons of various ages, and the adequacy of the mechanism for the delivery of services. In conducting the evaluations called for by this subsection, the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class, of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under section 108, or under title III. He shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

(b) As a part of his activities under subsection (a); the Secretary shall measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and under title IV–C of the Social Security Act. The data so developed shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(c) The Secretary is authorized to conduct, etiher directly or by way of contract, grant, or other arrangement, a thorough evaluation of all programs and activities conducted pursuant to this Act to determine the effectiveness of such programs and activities in meeting the special needs of disadvantaged, chronically unemployed, and low-income persons for meaningful employment opportunities and supporting services to continue or resume their education and employment and to become more responsible and productive citizens.

REMOVAL OF ARTIFICAL BARRIERS TO EMPLOYMENT AND ADVANCEMENT

SEC. 310. The Secretary, in consultation with appropriate departments and agencies of the Federal Government, shall conduct a continuing study of the extent to which artificial barriers to employment and occupation advancement, including civil service requirements and practices relating thereto, within agencies conducting programs under this Act, restrict the opportunities for employment and advancement within such agencies and shall develop and promulgate guidelines, based upon such study, setting forth recommendations for task and skill requirements for specific jobs and recommended job descriptions at all levels of employment, designed to encourage career employment and occupational advancement within such agencies.

TRAINING AND TECHNICAL ASSISTANCE

SEC. 311. The Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, and other appropriate officials, where appropriate, shall provide directly or through grants, contracts, or other arrangements, preservice and inservice training for specialized, supportive, and supervisory or other personnel and technical assistance which is needed in connection with the programs established under this Act.

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of section 102 (a)(2), the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "low-income person" and "person heading a low-income family" have the meaning given them in regulations of the Secretary, except that persons receiving benefits under a State plan approved under title IV of the Social Security Act, or food stamps or surplus commodities under the Agricultural Act of 1949 and the Food Stamp Act of 1964 shall be considered to be low-income persons or persons heading low-income families as the case may be. In developing such regulations, the Secretary shall consult with the Social Security Administrator, and shall take into consideration family size, urban-rural and farm-nonfarm differences, and other relevant factors.

(4) "health care" includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of manpower services to obtain or retain employment.

(5) "unit of general local government" means any city, municipality, county, town, township, parish, village or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

(6) "Wagner-Peyser Act" means "An Act to provide for the establishment of a national employment system and for cooperation with the States in the promotio.. of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113), as amended (29 U.S.C. 49 et seq.)

(7) "manpower allotment" means sums distributed under title I of this Act and with respect to fiscal year 1973, funds available under title II of the Manpower Development and Training Act of 1962, and title I—B of the Economic Opportunity Act of 1964.

(8) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, and other fields of human betterment, and community improvement.

(9) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) except for purposes of section 503 and 504, adults who or whose families receive supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment;

(10) "underemployed persons" means—

(A) persons who are working part-time but seeking full-time work;

(B) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(b) As used in section 207(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public agency or institution which is a subdivision of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

LEGAL AUTHORITY

SEC. 402. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines and other published interpretations or orders may in-

clude adjustments authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For the purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies.

(b) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of the Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act, but only in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

CONDITIONS APPLICABLE TO ALL PROGRAMS

SEC. 403. The Secretary shall not provide financial assistance for any program under this Act unless—

(1) the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs;

(2) such program does not involve political activities;

(3) he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship;

(4) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(5) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(6) appropriate workmen's compensation protection will be provided to all participants;

(7) the program will not result in the displacement of employed workers or impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(8) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(9) no person shall be referred for training authorized under subsection (3) or (4) of section 101 unless the Secretary or the prime sponsor, as appropriate, shall have determined that there is a reasonable expectation of employment for such person in the occupation for which he is being trained, in the area covered by the plan or program under which the training is being provided;

(10) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this Act and not to supplant such other funds;

(11) the applicant will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this Act;

(12) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(13) the program has adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, availability of inservice training and technical assistance programs, and other policies as may be necessary to promote the effective use of funds; and

(14) the program makes appropriate provision for the manpower needs of youth in the area to be served.

SPECIAL LIMITATION

SEC. 404. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitations on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(b) Any amounts received under chapters 11, 13, 31, 34, and 35 of title 38, United States Code, by any veteran of any war, as defined by section 101 of title 38, United States Code, who served on active duty for a period of more than one hundred and eighty days or was discharged or released from active duty for a service-connected disability or any eligible person as defined in section 1701 of such title, if otherwise eligible to participate in programs under this Act, shall not be considered for purposes of determining the needs or qualifications of participants in programs under this Act.

(c) Acceptance of family planning services provided to trainees shall be voluntarily on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or receipt of any benefit under the program.

(d) No non-governmental individual, institution, or organization shall evaluate any program under this Act if that individual or any member of such institution or organization is associated with that program as a consultant, technical adviser, or in any similar capacity.

ANNUAL REPORTS

SEC. 405. (a) The Secretary shall submit an annual report to the Congress on his activities under this Act.

(b) Each prime sponsor shall prepare for the Secretary, and make available, to the public, a report on its activities under the Act, including a detailed comparison of program performance with approved plan.

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

ACCEPTANCE OF GIFTS

SEC. 407. The Secretary is authorized, in carrying out his functions and responsibilites under this Act, to accept in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, an unconditional gift of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

UTILIZATION OF SERVICES AND FACILITIES

SEC. 408. In addition to such other authority as he may have, the Secretary is authorized, in carrying out his functions under this Act, to utilize, with their assent, the services and facilities of Federal agencies without reimbursement, and with the consent of any State or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivision with or without reimbursement.

INTERSTATE AGREEMENTS

SEC. 409. In the event that compliance with provisions of this Act requires cooperation or agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

REPEAL OF OTHER LAW

SEC. 410. Effective with respect to fiscal years after June 30, 1973, the Manpower Development and Training Act of 1962 and title I—B and I—E of the Economic Opportunity Act of 1964 are repealed. Unexpended appropriations for carrying out such Acts may be made available to carry out this Act, as directed by the President.

HATCH ACT

SEC. 411. State or local officers or employees engaged in programs assisted under this Act shall be considered for purposes of section 1501(4) of title 5, United States Code, to be individuals whose principal employment is in connection with an activity financed by grants made by the United States.

CRIMINAL PROVISIONS

SEC. 412. (a) Chapter 31 of title 18, United States Code, is amended by adding a new section 665 to read as follows:

"THEFT OR EMBEZZLEMENT FROM MANPOWER FUNDS; IMPROPER INDUCEMENT

"SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any agency receiving financial assistance under the Comprehensive Manpower Act embezzles, willfully misapplies, steals, or obtains by fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Manpower Act, induces any person to give up any money or thing of any value to any person (including such grantee

agency) shall be fined not more than $1,000, or imprisoned not more than one year, or both."

(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"665. Theft or embezzlement from manpower funds; improper inducement."

NONDISCRIMINATION

SEC. 413. (a) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act.

(b) Whenever the Secretary determines that a prime sponsor or eligible applicant has failed to comply with subsection (a) or an applicable regulation, he shall notify the prime sponsor or eligible applicant of the noncompliance and shall request the prime sponsor or eligible applicant to secure compliance. If within a reasonable period of time, not to exceed sixty days, the prime sponsor or eligible applicant fails or refuses to secure compliance, the Secretary, in addition to exercising the powers and functions provided for the termination of financial assistance under this Act, is authorized (1) to refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that a prime sponsor or eligible applicant is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(d) The Secretary shall enforce the provisions of subsection (a) dealing with discrimination on the basis of sex in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with any program or activity receiving assistance under this Act.

RECORDS, AUDIT, AND REPORTS

SEC. 414. In order to assure that funds provided under this Act are used in accordance with its provisions, each recipient shall—

(1) use such fiscal, audit, and accounting procedures as may be necessary to assure (A) proper accounting for payments received by it, and (B) proper disbursement of such payments;

(2) provide to the Secretary and the Comptroller General of the United States access to, and the right to examine, any books, documents, papers, or records as he requires; and

(3) make such reports to the Secretary or the Comptroller General of the United States as he requires.

TITLE V—AUTHORIZATIONS AND ALLOCATIONS

APPROPRIATIONS AUTHORIZED

SEC. 501. (a) There are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding years for purposes of carrying out this Act.

(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act which are not obligated prior to the end of the fiscal year for which such funds were appropriated shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

FUNDS AVAILABLE FOR SPECIFIC PROGRAMS

SEC. 502. (a) Of the amount appropriated to carry out this Act, the Secretary shall reserve and make available $250,000,000 in fiscal year 1974 and $500,000,000 in fiscal year 1975 for the purpose of carrying out public employment programs under title II.

(b) Of the amount appropriated to carry out the Act for any fiscal year, not more than 20 per centum shall be available to carry out title III and title VI.

ALLOCATION OF FUNDS UNDER TITLE I

SEC. 503. (a) Eighty per centum of the amount available for title I in any fiscal year shall be reserved and distributed in accordance with the provisions of this subsection. From such amount available, the Secretary shall reserve such sums as he determines are necessary (but not to exceed 1 per centum of such amount) to provide reasonable reimbursement to State prime sponsors for costs incurred in fulfilling their duties and responsibilities under section 105(a)(2)(B). The remainder of such amount available shall be allocated among the States so that equal proportions are distributed on the basis of (1) the relative number of unemployed within the State as compared to all the States; (2) the manpower allotment of the State in the prior fiscal year compared to the manpower allotment for all the States in that year: *Provided, however,* That at least $2,000,000 shall be allotted among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands according to their respective needs. The sum available to each State shall be allocated among areas within the State on an equitable basis based upon the same factors.

(b) Not more than 5 per centum shall be available to the Secretary to encourage voluntary combinations formed under section 102(a)(3).

(c) Five per centum of the funds available under title I shall be available only for grants under section 110: *Provided,* That such grants shall not increase the funds available in any prime sponsor's area by more than 20 per centum of the amount allotted to such prime sponsors under subsection (a).

(d) The remainder of the funds shall be available in the Secretary's discretion. In exercising that discretion the Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

(e) Grants made to prime sponsors designated under section 102(a)(5) shall be from funds not allocated under subsection (a).

ALLOCATION OF FUNDS UNDER TITLE II

SEC. 504. (a) Eighty per centum of funds available for any fiscal year under title II shall be allocated among eligible applicants in accordance with the number of unemployed residing in areas of substantial unemployment within the jurisdiction of the applicant compared to the number of unemployed residing in all such areas.

(b) The remainder may be distributed by the Secretary in his discretion taking into account the severity of unemployment within such areas.

TITLE VII—NATIONAL COMMISSION FOR MANPOWER POLICY

FINDINGS AND DECLARATION OF PURPOSE

SEC. 701. The Congress hereby finds and declares that the responsibility for the development, administration, and coordination of programs of training and manpower development generally is so diffused and fragmented at all levels of government that it has been impossible to develop rational priorities in these fields, with the result that even good programs have proved to be far less effective than could reasonably be expected. The Congress further finds that the lack of a coherent, flexible, national manpower policy reduces our prospects of solving economic and social problems which threaten fundamental national interests and objectives. Accordingly, the purpose of this title is to establish a National Commission for Manpower Policy which will have the responsibility for examining these issues, for suggesting ways and means of dealing with them, and for advising the Secretary on national manpower issues.

SEC. 702. (a) There is hereby established a National Commission for Manpower Policy (hereinafter referred to as the "Commission") which shall consist of sixteen members selected as follows—

(1) six members, as follows, serving ex officio: the Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, and the Administrator of Veterans' Affairs; and

(2) ten members broadly representative of labor, industry, agriculture, commerce, education (including vocational-technical education), State and local elected officials involved with manpower programs, and of the general public appointed by the President.

(b) The Commission shall meet at the call of the Chairman, who shall be selected by the President and who shall be one of the ten appointed public members, but not fewer than three times a year.

(c) The Chairman (with the concurrence of the Commission) shall appoint a Director, who shall be the chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairman. The Director may appoint, with the concurrence of the Chairman and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the Commission, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

FUNCTIONS OF THE COMMISSION

SEC. 703. The Commission may—

(1) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

(2) examine and evaluate the effectiveness of any federally assisted manpower development programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (1) of this section;

(3) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing manpower and related legislation or those set forth in the recommendations of the Commission and particularly the programs which are designed (or could be designed) to develop information

and knowledge about manpower problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of manpower programs; and

(4) make such other evaluations, investigations, or inquiries as it considers appropriate for carrying out the purposes of this title and for helping to make effective the programs authorized by this Act.

COORDINATION STUDY

SEC. 704. The Commission shall conduct a study of the utilization and interrelation of programs of manpower training with closely associated programs such as those conducted under the Wagner-Peyser Act, the work incentives program under part C of title IV of the Social Security Act, and others of similar nature, with a view to determining how they could be better coordinated and more effectively combined to serve individuals, particularly at the State and local levels, and shall make a report of their findings and recommendations to the President and the Congress not later than January 31, 1975.

REPORTS

SEC. 705. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress, and the first such report shall be transmitted not later than September 1, 1974. The Commission may make such interim reports or recommendations to the Secretary of Labor or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

ENERGY STUDY

SEC. 706. The Secretary shall, immediately upon enactment of this Act, make a study of the impact of energy shortages, including fuel rationing, on manpower needs. The Secretary shall, within one year after enactment, make final a report of his findings and recommendations to the Congress and to the Commission, and shall make preliminary reports thereon beginning with March 1974. Upon receipt of the Secretary's report, the National Commission for Manpower Policy shall continue to make studies of such matters, and shall include its findings and recommendations with respect thereto in the reports required by section 705.

And amend the title so as to read: "An Act to assure opportunities for employment and training to unemployed and underemployed persons."

Mr. NELSON. Mr. President, I move that the Senate concur in the House amendments with a further amendment, to substitute, in lieu of the text of the House amendment, the amendment, which I am sending to the desk.

The PRESIDING OFFICER. The substitute amendment will be stated.

The assistant legislative clerk read as follows:

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 "Job Training and Community Services Act of 1973".

TITLE I—STATE AND LOCAL SPONSORSHIP OF PROGRAMS

STATEMENT OF PURPOSE

SEC. 101. It is the purpose of this Act to establish a flexible and decentralized system of State and local programs providing job training opportunities and community services for economically disadvantaged, unemployed, and underemployed persons, to make funds available to States and communities to meet locally determined needs consistent with the purposes of this Act, and to assure that training and other services lead to employment and enhanced self-sufficiency.

AUTHORIZATION

SEC. 102. (a) For the purpose of carrying out this Act, there are authorized to be appropriated such sums as may be necessary for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years.

(b) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(c) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

TRANSITIONAL PROVISIONS

SEC. 103. (a) To the extent necessary to provide for the orderly transition of supporting job training programs, and to provide continued financial assistance for such programs, prior to July 1, 1974, the Secretary is authorized to provide financial assistance in the same manner and on the same conditions as provided in the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, title I of the Economic Opportunity Act of 1964, and the Emergency Employment Act of 1971, as in effect prior to June 30, 1973, from funds appropriated pursuant to this Act.

(b) The authority contained in this section shall not be construed to postpone or impede the prompt designation of prime sponsors and the implementation of other provisions of this Act, but the Secretary shall continue to provide financial assistance, by contract or otherwise, for carrying out national programs of demonstrated effectiveness through the fiscal year ending June 30, 1974.

PRIME SPONSORS

SEC. 104. (a) For the purposes of this Act—

(1) any State;

(2) any unit of general local government—

(A) which is a city having a population of one hundred thousand or more persons; or

(B) which is a county or comparable unit of general local government having a population of one hundred and fifty thousand or more persons (other than the number of persons therein included within the population of any city designated as a prime sponsor under clause (A) of this subparagraph);

(3) any consortium of adjoining units of general local government serving a labor market area or substantial portion thereof, including at least one unit of general local government described in clause (A) or (B) of subparagraph (2); or

(4) any unit of general local government or any consortium of such units, without regard to population, which is determined by the Secretary of Labor—

(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, and (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as the State;

shall be eligible to be a prime sponsor of programs under this Act in accordance with the provisions of this section.

(b) (1) Where the area under the jurisdiction of a unit of general local government described in clause (B) of subparagraph (2) of subsection (a) includes any common geographical area with that covered by a unit of general local government described in clause (A) of subparagraph (2) of subsection (a), the Secretary shall designate to serve such common area the unit of general local government which demonstrates the capability for more effectively carrying out the purposes of this Act with respect to such area.

(2) Before designating a unit of general local government under paragraph (1) of this subsection, the Secretary shall—

(A) request the comments of the Governor of the State concerning the manner in which the proposed prime sponsorship arrangements for the area involved will relate to statewide planning arrangements;

(B) undertake reasonable steps, where appropriate and practicable in order to carry out more effectively the purposes of this Act, to seek an agreement among the units of general local government involved to enter into consortium arrangements as described in subparagraph (3) of subsection (a) of this section; and

(C) afford an opportunity to the units of general local government involved to submit comments with respect to proposed prime sponsorship arrangements to the Secretary.

(c) Any State or unit or consortium of units of general local government which is eligible to be a prime sponsor under subsection (a) shall be so designated by the Secretary if he determines that a satisfactory prime sponsorship plan has been submitted and that—

(1) the plan describes the prime sponsorship area to be served and evidences the capability for effectively carrying out programs under this Act throughout such area;

(2) the plan provides that the prime sponsor shall be responsible for submitting program statements and for the planning and development of programs in the prime sponsorship area;

(3) the plan was submitted to the Secretary by such date as the Secretary shall prescribe by regulation in order to provide a reasonable period of time for review in accordance with the provisions of this section;

(4) a copy of such plan has been submitted for comment thereon to the Governor of the State and the Governor has been provided a reasonable period of time to review and submit comments on such plan;

(5) in the case of a plan submitted by a State, satisfactory arrangements are set forth for serving all geographical areas under its jurisdiction except for areas for which a local prime sponsor is designated under subparagraph (2), (3), or (4) of subsection (a) of this section; and

(6) the plan was made public prior to submission to the Secretary.

(d) A plan submitted in accordance with this section may be disapproved or a prior designation of a prime sponsor may be withdrawn only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of reasons therefor;

(2) a reasonable period of time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

TITLE II—JOB TRAINING PROGRAMS

PROGRAMS AUTHORIZED

SEC. 201. (a) Programs receiving financial assistance under this title shall include provision of training opportunities and related services needed to enable economically disadvantaged, unemployed, and underemployed individuals, and others in need of training or retraining, to secure and retain employ-

ment consistent with their full potential, including—

(1) programs to acquaint men and women with the availability of training and related services and to encourage the full utilization of such services;

(2) assessment of the individual's needs, potential, and interests, with referral to appropriate training and related services;

(3) counseling, education, orientation, and institutional and on-the-job training to prepare the individual for work or to qualify for more productive job opportunities;

(4) allowances for training, and for transportation, subsistence, or other expenses incurred while participating in job training programs;

(5) supportive services to enable individuals to take advantage of employment and training opportunities, including basic education, necessary health care services, child care, residential support assistance in securing bonds, or any other necessary assistance incident to employment, and any other service needed to participate in employment and training programs;

(6) development of information concerning the labor market and activities, such as job restructuring, to make such activities more responsive to objectives of employment and training programs; and

(7) such other activities as are consistent with the provisions and purposes of this title.

(b) Programs assisted under this title may include, but are not limited to—

(1) Mainstream programs providing financial assistance for the support of projects which involve work activities directed to the needs of those chronically unemployed and economically disadvantaged persons who have particularly poor employment prospects and are unable (because of age, physical condition, obsolete or inadequate skills, declining economic conditions, or otherwise) to secure appropriate employment or training and related services under other programs. Such projects, in addition to other services provided, shall enable such persons to participate in projects for the betterment or beautification of the community or area served by the program, including but not limited to activities which will contribute to the management, conservation, or development of natural resources, recreational areas, Federal, State, and local government parks, highways, and other lands; the rehabilitation of housing; the improvement of public facilities; and the improvement and expansion of health care, education, child care, antipoverty, and recreation services.

(2) New careers programs providing economically disadvantaged or unemployed persons with jobs leading to career opportunities, including new types of careers, in programs designed to improve the physical, social, economic, or cultural condition of the community or areas served in fields of public service, including but not limited to health care, education, welfare, recreation, child care, antipoverty, neighborhood redevelopment, and law enforcement, which provide maximum prospects for on-the-job training, promotion, and advancement and continued employment without Federal assistance.

(3) Neighborhood youth corps programs to provide (A) part-time employment, on-the-job training, and useful work experience for economically disadvantaged students who are in the ninth through twelfth grades of school (or of an age equivalent to that of students in such grades) and who are in need of earnings to permit them to resume or maintain attendance in school; (B) useful work and training (including sufficient basic education and institutional or on-the-job training) for unemployed, underemployed, or economically disadvantaged persons (aged sixteen and over) who are not in school designed to assist those persons to develop their maximum occupational potential and to obtain regular employment; and (C) job and related recreation opportunities for economically disadvantaged persons during the summer months.

(4) Opportunities industrialization centers designed to provide comprehensive employment services and job opportunities for low-income persons who are unemployed or underemployed. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that residents of the area to be served by such program are involved in the planning and operation of such center, and that business and labor in the area to be served by such programs are consulted in the development and operation thereof. Priority shall be given to programs serving residents of inner-city areas with substantial unemployment or underemployment.

(5) Jobs for progress and other programs designed to provide comprehensive employment opportunities and training and related services for economically disadvantaged persons who are unemployed or underemployed, including persons of limited Einglish-speaking ability, migrants, and others through the establishment of skill centers. Such services shall include recruitment, counseling, remedial education, vocational training, job development, job placement, health care, child care, and other appropriate services and adequate provisions to assure that the residents of the area to be served by such programs are involved in the planning and operation of such centers and that business and labor in the area to be served by such programs are consulted in the development and operation thereof.

(6) Job opportunities in the business sector and other programs to encourage and to provide incentives to private employers, nonprofit organizations, and public employers to train or employ economically disadvantaged, unemployed, or underemployed persons, including arrangements by direct contract reimbursing employers for the costs of recruiting and training such employees to the extent that such costs exceed those customarily incurred by such employer in recruiting and training new hires, payment for on-the-job counseling and other supportive services, transportation, and payments for other extra costs including supervisory training required by the program.

(7) Skill centers and other programs for the development of job opportunities through institutional training programs for economically disadvantaged, unemployed, or underemployed persons, providing recruitment, counseling, remediation, vocational training, job development, job placement, and other appropriate services.

(8) Special job development programs with public or private employers, including employment centers and mobile employment service units to provide recruitment, counseling, and placement services, conveniently located in urban and rural areas and particularly accessible to economically disadvantaged persons.

(9) Special manpower training programs and related educational and other services for offenders, including pretrial or other intervention programs, programs for offenders under sentence, prerelease job furloughs, bonding assistance, job development programs with public or private employers (including incentive payments), programs in residential and nonresidential centers and halfway houses, and programs to train professional and paraprofessional personnel to serve the training and employment needs of offenders and other activities to meet such needs.

(10) Programs and projects designed to meet the special needs of Indians for employment and training and related services.

(11) Programs and projects designed to meet the special needs of persons in migrant and seasonal farmworkers families for employment and training and related services.

(12) Programs and projects designed to meet the special needs of persons of limited English-speaking ability for employment and training and related services.

(13) Employment and training programs, counseling and related supportive services for middle-aged and older workers, including on-the-job, institutional, residential, and other training designed to improve the skills and capabilities of such workers, particularly in areas of high or chronic unemployment among middle-aged and older persons.

(14) Programs and projects designed to offer job counseling, training, placement, and other vocational assistance to unemployed and underemployed engineers, scientists, and technicians.

(15) Public service employment programs providing transitional employment for unemployed and underemployed persons in jobs providing needed public services, with training and related supportive services designed to lead to public or private employment not supported under this Act.

(c) Sums made available for public service employment programs from appropriations to carry out this Act shall be used only for public service employment programs meeting the requirements set forth in the provisions of the Emergency Employment Act of 1971 to the extent that such requirements are consistent with the provisions of this Act.

ALLOCATION OF FUNDS

SEC. 202. (a) The amounts available for any fiscal year for carrying out this title shall be allocated in such a manner that of such amounts—

(1) not less than 75 per centum shall be apportioned among the States, distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such State bears to such total numbers, respectively, in all the States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $150,000 each shall be apportioned to the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) the remainder shall be available to enable the Secretary to carry out his responsibilities under this title and title I.

(b)(1) The amount apportioned for use within each State under clause (1) of subsection (a) shall be apportioned geographically among areas served by prime sponsors and by program agents within each such State, distributed equally according to the proportions which the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area bears to such total numbers, respectively, in the State.

(2) In apportioning the remaining funds within the State's prime sponsorship area, the State shall make apportionments among the remainder of local planning areas on an equitable basis, taking into account the total numbers of unemployed persons and of adults who or whose families have a total annual income below the lower living standard budget in each such area.

(c) In the event that appropriations for the fiscal year ending June 30, 1974, and each of the two succeeding fiscal years are not sufficient to provide to each State, and to each local area within each such State, an amount of funds for each such fiscal year at least equal to that which was made available for use within such area for the fiscal year ending June 30, 1972, in carrying out programs under the Manpower Development and Training Act of 1962 and parts B and E

of title I of the Economic Opportunity Act of 1964, then the Secretary shall make necessary adjustments, in making apportionments among States under subsection (a)(1) and among areas served or to be served by prime sponsors and by program agents under subsection (b)(1), to ensure that no State and no local area, during the fiscal year ending June 30, 1974, and each of two succeeding fiscal years, receives any smaller proportion of the sums appropriated than such State and area received for such programs during such fiscal year 1972.

(d) Of the amounts geographically apportioned to each area within a State pursuant to subsections (b)(1) and (c), an amount equal to 15 per centum of each such apportionment shall be available to the State to provide services and activities to individuals of the area to which such funds are apportioned.

(e) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments made pursuant to subsections (a)(1), (b)(1), and (c) of this section. Apportionments under this section shall be based on the latest satisfactory data and estimates available. In determining the number of adults who or whose families have annual incomes below the lower living standard budget, the Secretary shall determine the number of families receiving annual incomes below the nearest income level for which satisfactory census data is available not less than the average lower living standard budget for a family of four in the United States for the year during which such census data was developed; and in making such determination for any State with respect to which the nearest such income level not less than the average lower living standard budget applicable to that State is a different level, the Secretary shall determine the number of families below the latter level in such State.

(f) The Secretary is authorized to make such reallocations under this title as he deems appropriate of the unobligated amount of any apportionment pursuant to subsections (a)(1), (b)(1), and (c) to the extent that the Secretary determines that it will not be required for the period for which such apportionment is available. Apportioned amounts may not be reallocated for any reason before the expiration of the ninth month of the fiscal year for which such funds were appropriated and thereafter may be reallocated only if the Secretary has provided thirty days" advance notice to the prime sponsor for such area and to the Governor of the State of the proposed reallocation, during which period of time the prime sponsor and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

EMPLOYMENT AND TRAINING COUNCILS

SEC. 203. In order to be designated as a prime sponsor of programs under this title, each eligible prime sponsor under section 104 of this Act shall include in its prime sponsorship plan adequate provisions for establishing and maintaining an employment and training council which shall—

(1) provide that the chief executive officer or officers of the unit or units of government establishing such council shall appoint the members of the council, with equitable representation on such council to be afforded to each unit of government entering into a consortium under subparagraph (3) or (4) of section 104(a) or, where (pursuant to section 104(b)(1)) the Secretary designates a unit of government described in clause (B) of section 104(a)(2), to the unit not so designated;

(2) provide that the council shall include members who are representative of community action agencies; other community-based organization; the public employment service; education and training agencies and community postsecondary educational and training institutions; social service programs, including child care, environmental quality, health care, recreation, vocational rehabilitation, and welfare industrial development organizations; apprenticeship programs; veterans organizations; business; and labor; and not less than one-third of the membership of such council shall be representative of the significant segments of the population to be served;

(3) provide that one member of the council shall be designated as chairman who shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) provide that the council will be entitled to recommend program statements, basic goals, policies, and procedures, and will be responsible for annual and ongoing evaluation of employment and training programs conducted in the prime sponsorship area, and for establishing procedures for the certification (by either panels of representatives of labor and management established for that purpose or by the council, as required by the Secretary) that training and other services to be provided in such area under this title have a reasonable prospect of leading to appropriate employment opportunities;

(5) provide assurances that staff and other administrative expenses for the council will not exceed a reasonable per centum of the total cost of programs administered by each prime sponsor, as established by regulations which the Secretary shall prescribe;

(6) Set forth the council's responsibility for conducting on a continuing basis surveys and analyses of needs for employment, training, and related services in the area served by the prime sponsor to be used in the development of plans under this title;

(7) set forth appropriate arrangements for involving community action agencies, other community-based organization, educational agencies and institutions (including vocational education and community colleges), and vocational rehabilitation agencies, in the development of program statements and in the implementation of programs assisted under this title; and

(8) set forth plans for the council to provide for objective evaluations of the effectiveness of programs for which financial assistance is provided under this title.

PROGRAM STATEMENTS

SEC. 204. (a) In order to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary a program statement, which shall include—

(1) a statement of employment and training needs and priorities in the area, descriptions of the services for which financial assistance received under this title will be used, and performance goals;

(2) the identification of any agencies or organizations designated to carry out such services under the supervision of the prime sponsor;

(3) any arrangements made for services to be performed, on a reimbursable basis or otherwise, by the public employment service or any other public or private agency, institution, or organization;

(4) a description of the areas to be assisted by such programs, including data regarding potential eligible participants;

(5) provisions designed to assure that funds under this title will be made available so as to serve on an equitable basis the significant segments of the population to be served in the prime sponsorship area, including—

(A) provisions to assure that adequate bilingual and other programs and activities are included as part of job training, employment, and related services designed to meet the special needs of persons of limited English-speaking ability;

(B) provisions to assure that adequate programs and activities are provided to meet the special needs of middle-aged and older men and women;

(6) provisions to assure the utilization, to the extent feasible, of those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies, including but not limited to the State employment service, State vocational education, and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current and prospective manpower shortages;

(7) provisions to assure that priority will be given to employment preparation programs which provide, in connection with job training opportunities supported with funds under this title, for the making of commitments by prospective public and private employers to employ persons who satisfactorily complete their prescribed periods of training in jobs for which such persons received such training;

(8) assurances that training and related services for which funds are provided under this Act are designed to the maximum extent practicable, consistent with each individual's fullest capability, to lead to employment opportunities, to the extent available in the area to be served, for which wages will be paid at a rate not less than the higher of (A) the minimum wage would be applicable under the Fair Labor Standards Act of 1938 if section 6(a)(1) of such Act applied to such person and if he were not exempt under section 13 thereof, or (B) the State or local minimum wage for the most nearly comparable covered employment;

(9) such other information, assurances, statements, and arrangements consistent with the provisions of this Act as the Secretary shall prescribe by regulation, including provisions designed to assist the Secretary in carrying out his special responsibilities under section 205.

(b) The Secretary shall provide financial assistance to each prime sponsor under this title to carry out the program statement submitted by each such prime sponsor upon determining that—

(1) the program statement is consistent with the provisions of this title;

(2) the program statement was made public prior to submission to the Secretary;

(3) the prime sponsor has demonstrated maximum efforts (A) to implement the provisions in the prior year's program statement described in clause (7) of subsection (a) of this section, (B) to ensure that employment commitments made pursuant thereto were fulfilled by prospective employers making such commitments, and (C) in the case of the failure of such fulfillment, to place the persons receiving such training in comparable employment or to employ such person;

(4) an opportunity was provided for each appropriate area planning council estab-

lished in accordance with section 206(b)(3) of this Act to review and submit comments to the prime sponsor with respect to its proposed program statement prior to submission to the Secretary;

(5) an opportunity was provided to the Governor of the State to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(6) an opportunity was provided to officials of the appropriate units of general local government in the area to be served to submit comments with respect to the program statement to the prime sponsor and to the Secretary;

(7) an opportunity was provided to the appropriate State or local agency or agencies having responsibility for vocational education, vocational rehabilitation, and the public employment service, and to community action agencies and other community-based organizations in the area to be served, to submit comments with respect to the program statement to the prime sponsor and to the Secretary.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 205. (a) Out of the funds made available to the Secretary pursuant to section 202(a)(2) for carrying out his responsibilities under this title, the Secretary shall establish procedures to assure that——

(1) not less than that portion of the funds appropriated for carrying out this title as is equivalent to that proportion which the total number of Indians bears to the total number of low-income persons in the Nation shall be made available to Indian tribes on Federal and State reservations, and to organizations (as determined by the Secretary) serving non-reservation Indians, for programs and projects under this title designed to meet the needs of Indians for employment and training and related services;

(2) not less than that portion of funds appropriated for this title as is equivalent to that proportion which the total number of persons in migrant and seasonal farmworker families bears to the total number of low-income persons in the Nation shall be available for programs and projects under this title designed to meet the special needs of persons in migrant and seasonal farmworker families for employment and training and related services.

(b) Out of the remaining funds available to the Secretary pursuant to section 202(a)(2) for carrying out his responsibilities under this title, the Secretary is, without limitation, authorized to—

(1) provide additional financial assistance to prime sponsors and public or private nonprofit agencies in order to continue ongoing programs and activities of demonstrated effectiveness;

(2) carry out, through contract or otherwise, a comprehensive program of research and experimental, model, demonstration, and pilot programs to conduct innovative efforts and otherwise improve understanding and methods of meeting employment and training needs;

(3) provide for an ongoing program of technical assistance and of monitoring and evaluating the effectiveness of programs and projects assisted under this title in carrying out the purposes and provisions of this title;

(4) develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion;

(5) establish and carry out a nationwide computerized job bank and matching program (utilizing the listing of all suitable employment openings with local offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs;

(6) carry out a Job Corps program in accordance with the requirements set forth in the provisions of part A of title I of the Economic Opportunity Act of 1964, as amended, to assist economically disadvantaged persons under twenty-two years of age who need and can benefit from an intensive program of training and related services, operated in a group setting, to become more responsible, employable, and productive citizens, through the establishment of residential and nonresidential centers in which enrollees participate in intensive programs of education, vocational training, work experience, counseling, and other activities;

(7) provide special services for middle-aged and older men and women including recruitment, placement, and counseling for such persons who are unemployed as a result of the closing of a plant or factory or a permanent large-scale reduction in the work force of a locality, and provide grants to or contracts with nonprofit volunteer agencies to assist such agencies in securing part-time or temporary employment for middle-aged and older persons;

(8) provide a system of support for special programs for offenders conducted under section 201(b)(9) and provide supplementary assistance to encourage the establishment of special model programs under section 206(a)(5); and

(9) carry out a special program to demonstrate the efficacy of providing certificates or vouchers to economically disadvantaged, unemployed, and underemployed persons entitling private employers who provide employment, training, and services to each person volunteering to participate in such program to payment in amounts equal to the face value of the certificate for specified periods of time during which each such person may not be fully productive.

(c) In addition to financial assistance made available by prime sponsors to carry out programs pursuant to program statements submitted under section 204, the Secretary in carrying out his special responsibilities under subsections (a) and (b) of this section shall—

(1) give due consideration to job training programs serving individuals from population groups having special needs for such programs, including programs for middle-aged and older persons and bilingual programs for persons of limited English-speaking ability, and special services for low-income individuals who do not reside in low-income areas;

(2) assure the continuation of a system of efforts by the National Alliance of Businessmen and the private sector generally in the provision of job opportunities for economically disadvantaged, unemployed, and underemployed persons, with particular emphasis on development of jobs and training for economically disadvantaged persons and veterans, as well as in the provision of summer and year-round jobs for economically disadvantaged youth, employment for ex-offenders, and employment of public assistance recipients, while encouraging the use of resources available to the private sector for the training of such persons;

(3) assure the continuation of a system of opportunities industrialization centers, jobs for progress, and other programs designed to provide comprehensive employment services and job opportunities for low-income persons who are unemployed or underemployed, including those with limited English-speaking ability, assuring that the residents of the areas served are involved in the planning and operation of such centers and that business and labor are consulted in their development and operation;

(4) provide support, in conjunction with the Secretary of Health, Education, and Welfare, and the Attorney General, for programs providing manpower training and related services for offenders, including research programs, the dissemination of information, bonding assistance, the conduct of model, demonstration, and pilot programs and where necessary the provision of supplementary financial assistance as authorized under paragraph (1) of subsection (b) of this section;

(5) utilize resources available under this section to carry out fully and effectively his responsibilities for the assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and his other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with offices of the State employment service by Federal contractors and subcontractors and providing for the special emphasis as required by section 2012(a) of such title; and

(6) give special consideration to job training programs servings individuals who are unemployed as a result of a closing of a facility or the substantial reduction of activities at a facility of the United States Government located in a labor market area in which the rate of unemployment for that labor market area has increased substantially due to the unemployment of such individuals.

COMPREHENSIVE STATE PLANNING ROLE

SEC. 206. (a) Funds available to each State under 202(d)(1) shall be used for—

(1) the provision of services throughout the State by State agencies responsible for employment and training and related services;

(2) providing additional financial assistance as incentives (A) for the designation of prime sponsors involving consortium arrangements among units of general local government, especially where areawide arrangements are made to serve a labor market area or substantial portion thereof, and (B) for special programs and services designed to meet the needs of rural areas outside major labor market areas;

(3) developing and publishing information regarding economic, industrial, and labor market conditions, including but not limited to job opportunities and skill requirements, labor supply in various skills, occupational outlook and employment trends in various occupations and economic and business development and location trends;

(4) providing, without reimbursement and upon request, to any prime sponsor serving an area without the State, such information and technical assistance as may be appropriate to assist any such prime sponsor in developing and implementing its programs under this title; and

(5) carrying out special model manpower training programs and related services for offenders and providing assistance to special programs for offenders conducted under section 201(b)(9) of this Act.

(b) Each State submitting a plan for designation as a prime sponsor of programs under this Act shall—

(1) provide for planning areas which together shall cover all of the State;

(2) provide that each planning area shall serve a geographical area covered by counties serving a total population of not more than five hundred thousands persons (other than the number of persons in such area included within the population served by any local prime sponsor designated under subpara-

graph (2), (3), or (4) of section 104(a) of this Act);

(3) provide, with respect to each planning area, for establishing and maintaining an area planning council consisting of members appointed or reappointed annually composed of (A)(i) one representative appointed by the governing body of each county in the area, and one representative appointed by the chief executive of each city which has a population of seventy-five thousand or more persons, and (ii) additional representatives appointed by each city or county having a population of seventy-five thousand or more persons (which is not served by a local prime sponsor designed under subparagraph (2), (3), or (4) of section 104 (a) of this Act) so that each such city or county shall have a total number of such additional representatives proportionate to the relative numbers obtained when the numbers of persons in the population of each such city or county is divided by seventy-five thousand (excluding from the population of any such county, for purposes of this subclause (ii), the number of persons within the population of any county included within any city having a population of seventy-five thousand or more persons), and (B) such additional persons as the members appointed pursuant to clause (A) of this subparagraph shall elect in order to assure that the membership of the council shall include persons representing the general public, including community action agencies, and other groups representing the economically disadvantaged and other significant segments of the population to be served, educational and training agencies and institutions, the public employment service, social service agencies, veterans organizations, business, and labor;

(4) assure that each area planning council shall prepare and submit to the State those portions of the program statement which affect those parts of the planning area which are not served by local prime sponsors designated under subparagraph (2), (3), or (4) of section 104(a) of this Act, and shall have an opportunity to comment upon any revisions made in such portions of the program statement before the program statement is submitted by the State to the Secretary;

(5) provide for the area planning council to review and submit comments to local prime sponsors within the area with respect to their proposed program statements;

(6) set forth arrangements for delegating to any unit of general local government having a population of seventy-five thousand or more persons (excluding, in the case of counties, the number of persons within the jurisdiction of any such unit of general local government which is a city having a population of seventy-five thousand or more persons) the functions of program agent with administrative responsibilities for developing, funding, overseeing, and monitoring programs operated within the area of such jurisdiction, consistent with the program statement, but the provisions of this subparagraph shall not apply with respect to any such unit which does not desire or does not have the capability (as determined in accordance with regulations which the Secretary shall prescribe) for exercising such responsibilities;

(7) provide assurances that the establishment of planning areas and the operation of planning area councils will be coordinated, where appropriate, with other planning agencies in the State, including comprehensive health planning councils and economic development districts; and

(8) set forth arrangements for assisting the Secretary in enforcing the requirement for Federal contractors and subcontractors to list all suitable employment openings with local offices of the State employment service and provide special emphasis, as required in section 2012(a) of title 38, United States Code.

COORDINATION

SEC. 207. (a) The Secretary of Labor shall not issue rules, regulations, standards of performance, or guidelines with respect to assistance for services of a health, education, or welfare character under this title unless he shall have first obtained the concurrence of the Secretary of Health, Education, and Welfare. Such services include but are not limited to basic or general education; educational programs conducted in correctional institutions or for ex-offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions.

(b) With respect to programs for offenders, the Secretary shall enter into appropriate agreements with—

(1) the Attorney General to assure the combining of resources and maximum coordination and joint planning between such programs and programs assisted pursuant to parts C and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Delinquency Prevention and Control Act of 1968, as amended, and other related provisions of Federal law; and

(2) the Director of the ACTION agency under which volunteers otherwise authorized to be recruited by the Director are made available as otherwise authorized to serve in such programs.

SPECIAL CONDITIONS

SEC. 208. The Secretary shall not provide financial assistance for any program under this title unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) conditions of employment or training will be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant;

(2) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on any project are established and will be maintained;

(3) appropriate workmen's compensation portection will be provided to all participants;

(4) the program will not result in the displacement of employed workers or impair existing contracts for services or results in the substitution of Federal for other funds in connection with work that would otherwise be performed;

(5) persons shall not be referred for training in an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation;

(6) funds will be used to supplement, to the extent practicable, the level of funds that would otherwise be made available from non-Federal sources for the purpose of planning and administration of programs within the scope of this title and not to supplant such other funds; and

(7) prime sponsors, program agents, and other recipients of financial assistance under this title will make such reports, in such form and containing such information as the Secretary may from time to time require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure that funds are being expended in accordance with the provisions of this title.

ALLOWANCES AND COMPENSATION

SEC. 209. (a) The Secretary shall, where appropriate, provide for the payments of weekly allowances to individuals receiving services under this title. Such allowances shall be at a rate prescribed by the Secretary which, when adjusted to take into account amounts received by the trainee in the form of public assistance or unemployment compensation payments, shall not be less than the minimum wage for a workweek of forty hours under section 6(a)(1) of the Fair Labor Standards Act of 1938 or, if higher, under the applicable State minimum wage law, or, where the trainee is being trained for particular employment, at a rate equal to 80 per centum of the weekly wage for such employment, whichever is greater. In prescribing allowances, the Secretary may allow additional sums for special circumstances, such as exceptional expenses incurred by trainees, including but not periods during which they are failing to participate in such allowances by an amount reflecting the fair value of meals, lodging, or other necessities furnished to the trainee. The Secretary shall take such action as may be necessary to insure that such persons receive no allowances with respect to periods during which they are failing to participate in such programs, training, or instruction as prescribed herein without good cause. The Secretary may, in accordance with such regulations as he shall prescribe, make appropriate adjustments in allowances which would otherwise be payable under this Act, including but not limited to adjustments which take into account the amount of time per week spent by the individual participating in such programs and upward adjustments to reflect the special economic circumstances which exist in the area in which the program is to be carried on. Allowances shall not be paid for any course of training having a duration in excess of one hundred and four weeks.

(b) For purposes of subchapter I of chapter 81 of title 5, United States Code, any person receiving services under this title shall, under such circumstances and subject to such conditions and limitations as the Secretary shall by regulation prescribe, be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply, except that, in computing compensation benefits for disability or death, the monthly pay of such a person shall be deemed to be his allowance for a month, if he is receiving one. Regulations prescribed by the Secretary under this subsection may include but are not limited to adjustments in the amount of compensation payable under this subsection to take into account entitlements to workmen's compensation under other applicable laws or arrangements.

TITLE III—COMMUNITY SERVICES FOR THE ECONOMICALLY DISADVANTAGED

FUNDS AVAILABLE

SEC. 301. Of the sums appropriated to carry out this Act for each fiscal year, an amount equal to 17.5 per centum thereof shall be made available by the Secretary to prime sponsors designated under section 104 of this Act for programs providing financial assistance in accordance with this title.

ELIGIBLE ACTIVITIES

SEC. 302. Each prime sponsor shall use funds made available to it under this title for the planning, conduct, administration, and evaluation of community services programs designed to assist economically disadvantaged persons to achieve self-sufficiency by providing financial assistance for programs and activities carried out by public or private nonprofit agencies or organizations, with due consideration for community action agencies. Such programs and activities may involve, without limitation, activities and services and supporting facilities designed to assist participants including the elderly poor—

(1) to secure and retain meaningful employment;

(2) to attain an adequate education;

(3) to make better use of available income;

(4) to provide and maintain adequate housing and a suitable living environment;

(5) to undertake voluntary family planning, consistent with personal and family goals, religious, and moral convictions;

(6) to obtain services for the prevention of narcotics addiction, alcoholism, and the rehabilitation of narcotic addicts and alcoholics;

(7) to obtain emergency assistance, through loans or grants, to meet immediate and urgent individual and family needs, including the need for health care services, nutritious food, housing, and employment-related assistance;

(8) to remove obstacles and solve personal and family problems which block the achievement of self-sufficiency;

(9) to achieve greater participation in the affairs of the community; and

(10) to make more frequent and effective use of other programs related to the purposes of this title.

ALLOCATION OF FUNDS

SEC. 303. (a) Of the sums available for purposes of this title, the Secretary shall allot not more than 2 per centum among Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Virgin Islands, according to their respective needs. The remaining sums available for this title shall be allotted among the States, in accordance with the latest available data, so that equal proportions are distributed on the basis of (1) the relative number of public assistance recipients in each State as compared to all the States, (2) the relative number of unemployed persons in each State as compared to all the States, and (3) the relative number of persons who or whose families have a total annual income below the poverty line in each State as compared to all the States. The sum available to each State shall be allocated among areas within each such State on an equitable basis, based upon the factors set forth in the preceding sentence. The Secretary shall make necessary adjustments in allocations determined in accordance with this subsection in order to assure that no area served by a community action agency during the fiscal year ending June 30, 1972, shall receive any lesser amount of funds for use within that area in any fiscal year than an amount equivalent to the proportion of the sums available for this title that such area received during such fiscal year 1972.

(b) Any portion of an allotment under subsection (a) which the Secretary determines will not be needed for any fiscal year shall be reallotted by the Secretary to other areas which the Secretary determines can effectively use such funds. Such funds may be reallotted only if the Secretary has provided thirty days advance notice to the prime sponsor for such area of the proposed reallocation, during which period of time the prime sponsor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the State and affected prime sponsors of any decision to reallocate funds and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

TITLE IV—GENERAL PROVISIONS

FAILURE TO ADMINISTER ACTIVITIES AND PROGRAMS IN ACCORDANCE WITH NATIONAL PURPOSES

SEC. 401. (a) Whenever the Secretary determines, after notice and opportunity for a public hearing, that any prime sponsor designated to serve under this Act is—

(1) maintaining a pattern or practice of discrimination in violation of section 403(d) of this Act or otherwise failing to serve equitably the significant segments of economically disadvantaged, unemployed, or underemployed persons in the area it serves;

(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to regulation;

(3) failing to give due consideration to continued funding of programs of demonstrated effectiveness, including those previously conducted under the Economic Opportunity Act of 1964 or the Manpower Development and Training Act of 1962, or failing to give special consideration to the programs referred to in section 205(c);

(4) failing to assure that training and other services have a reasonable prospect for leading to appropriate employment opportunities or enhancing self-sufficiency; or

(5) otherwise materially failing to carry out the purposes and provisions of this Act;

the Secretary shall revoke the prime sponsor's designation for the area, in whole or in part, and to the extent necessary and appropriate shall not make any further payments to such prime sponsor under this Act, and he shall notify such sponsor to return to him all or part of the unexpended sums paid under this Act during that fiscal year. The Secretary is authorized and directed to provide for continuing programs by making payments directly to public and private nonprofit agencies and organizations conducting activities which he determines are not in violation of the requirements of this section. To the extent necessary to assure the delivery of services in the areas served by any prime sponsor subject to the provisions of this section, the Secretary is authorized (if no other eligible prime sponsor is designated under section 104 of this Act to serve such area) to make grants to and enter into contracts with public and private nonprofit agencies and organizations in the same manner and to the same extent as if the Secretary were the prime sponsor for that area.

(b) The Secretary shall, prior to making any payments under this Act for any fiscal year, enter into an agreement with any prime sponsor receiving payments under this Act which contains provisions adequate to assure that the provisions of this section are carried out effectively.

DEFINITIONS

SEC. 402. As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" includes the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "city" means an incorporated municipality having general governmental powers;

(4) "county" means a political subdivision of a State having general governmental powers;

(5) "Indian" includes any individual who (A) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future a descendant, in the first or second degree, by the State in which they reside, or who is of any such member, or (B) is an Eskimo or Aleut or other Alaska Native;

(6) "lower living standard budget" means that income level (adjusted for regional and metropolitan, urban and rural differences and family size) determined annually by the Bureau of Labor Statistics of the Department of Labor and referred to by such Department as the "lower living standard budget".

(7) "health care" includes, but is not limited to, preventive and clinical medical treatment, voluntary family planning services, nutrition services, and psychiatric, psychological, and prosthetic services;

(8) "veteran" means a person defined as a "disabled veteran" or "veteran of the Vietnam era" in section 2011 (1) and (2) of title 38, United States Code;

(9) "offender" means any individual who is charged with or has been convicted of any criminal offense, including youthful offenders and juvenile delinquents;

(10) "youthful offender" means any person who has not attained eighteen years of age and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment and any person who has not attained twenty-five years of age and has not been previously convicted of a felony and who has violated a law of a State or an ordinance of a locality not punishable by death or life imprisonment.

SPECIAL LIMITATIONS AND CONDITIONS

SEC. 403. (a) The Secretary may prescribe such rules, regulations, guidelines, and other published interpretations or orders consistent with the provisions of this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, for the purpose of carrying out this Act shall contain, with respect to each material provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based. All such rules, regulations, guidelines, and other interpretations and orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date and copies thereof shall be transmitted to the appropriate committees of the Congress at such time.

(b) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high, or to assist in relocating establishments from one area to another. Such limitation on relocation shall not prohibit assistance to a business entity in the establishment of a new branch, affiliate, or subsidiary of such entity if the Secretary of Labor finds that assistance will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations, unless he has reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(c) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act. Such data shall include information on—

(1) enrollee characteristics, including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in training and employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per trainee, including breakdown between salary or stipend, training and supportive services, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis.

(d) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(e) The Secretary shall not provide financial assistance for any program under this

Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(f) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(g) All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a–5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(h) With respect to public service employment programs assisted under section 201(b)(15) of this Act, the Secretary shall establish appropriate procedures to ensure that all persons newly employed under any such program from funds made available from funds appropriated for fiscal years beginning after June 30, 1973, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons who are from economically disadvantaged backgrounds or have been unemployed for not less than fifteen weeks immediately prior to employment under such program.

(i) With respect to programs for offenders under this Act, the Secretary shall establish appropriate procedures to ensure that the following basic criteria are met—

(1) participants are provided with such manpower training and related assistance, and, where appropriate, supportive services (including basic education, drug addiction or dependency rehabilitation, health care and other services) and certification of completion of such training sufficient to enable them to secure and retain meaningful employment;

(2) programs, whenever feasible, provide for—

(A) participation of representatives of industry, and labor, employment personnel from the private sector of the economy, educational and vocational educational personnel, and qualified correctional personnel, in the development and conduct of programs to be assisted;

(B) maximum utilization of work experience, work-release, and cooperative training and the use of training equipment comparable to that currently used in the job for which training is furnished;

(C) assurances that prior arrangements have been made with appropriate parole, probationary, or judicial authority for release of participating offenders upon satisfactory completion of training;

(D) assurances that arrangements have been made or will be made with public or private employers for subsequent employment opportunities for the major portion of offenders participating in such program, upon satisfactory completion of training;

(E) assurances that, where appropriate, the agency of or organization conducting the program will provide (itself or by contract or other arrangement) for additional manpower training and supportive services for participants for a period of no less than twelve months following release from charges or a correctional institution but in no case shall such additional training exceed twenty-four months following such release.

(j) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that—

(1) participants are provided with such manpower training and related assistance and supportive services which will increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability;

(2) programs and activities shall include, but shall not be limited to—

(A) planning for and developing training courses to teach skills and occupations that do not require a high proficiency in English, particularly courses which would use materials in languages other than English;

(B) developing and implementing programs designed to increase the technical English vocabulary necessary for the performance of specific occupations likely to provide employment opportunities for persons of limited English-speaking ability;

(C) developing programs designed to increase the number and improve the quality of bilingual training instructors and bilingual placement personnel;

(D) establishing, maintaining, and operating programs (including the acquisition of necessary teaching materials and equipment) designed to increase employment opportunities and advancement opportunities for persons of limited English-speaking ability, including programs which, whenever feasible, provide for—

(i) teaching occupational skills in the primary language of any such persons for occupations that do not require a high proficiency in English;

(ii) teaching specific technical English vocabulary necessary in the performance of certain skills in occupations which are in demand and which such persons can be reasonably expected to perform;

(iii) developing programs, in cooperation with both existing and potential employers, designed to increase the English-speaking ability of such persons in order to enhance their opportunities for promotion;

(iv) assisting any such person to further develop and to capitalize on the bilingual ability of such person for jobs that require such skills;

(v) encouraging persons with limited English-speaking ability to seek employment, and encouraging employers to hire such persons;

(vi) disseminating to persons with limited English-speaking ability information in their primary language regarding the availability of jobs, regarding the availability of job training in their primary language, and regarding the availability of placement assistance by persons capable of conversing in the primary language of such persons; and

(vii) alternative scheduling of program or project activities designed to meet the needs of those individuals who might be unable to attend such training activities either during normal working hours or on a full-time basis.

NATIONAL EMPLOYMENT OPPORTUNITIES COUNCIL

SEC. 404. (a) The President shall appoint a National Employment Opportunities Council which shall consist of at least thirteen but not more than seventeen members and shall be composed of persons representative of labor, management, agriculture, public and private education, vocational education, vocational rehabilitation, employment and training programs, veterans organizations, women's organizations, and economic opportunity programs. From the members appointed to such Council, the President shall designate a chairman. Members shall be appointed for terms of three years except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one year each and one-third of the members shall be appointed for terms of two years each, and (2) appointments to fill the unexpired portion of any term shall be for such portion only. Such Council shall meet in open session and shall hold not less than two meetings during each calendar year.

(b) The National Employment Opportunities Council shall—

(1) identify the employment goals and needs of the Nation and assess the extent to which vocational education, institutional training, vocational rehabilitation, employment and training, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

(2) review the administration and operation of the programs referred to in clause (1) and advise the Secretary of Labor and the Secretary of Health, Education, and Welfare and other appropriate officials as to the carrying out of their duties under this Act and related Acts;

(3) conduct independent evaluations of programs carried out under this and related Acts and publish and distribute the results thereof; and

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of such programs including the programs authorized under this and related Acts.

(c) The National Employment Opportunities Council shall make an annual report, and such other reports as it deems appropriate on its findings, recommendations, and activities to the Congress and to the President. The President is requested to transmit to the Congress as a part of his report under section 405 of this Act such comments and recommendations as he may have with respect to such reports and activities of the National Employment Opportunities Council.

(d) The National Employment Opportunities Council may accept and employ or dispose of gifts or bequests, either for carrying out specific programs or for its general activities or for such responsibilities as it may be assigned in furtherance of subsection (b) of this section.

(e) Appointed members of the National Employment Opportunities Council shall be paid compensation at a rate of up to the per diem equivalent of the rate for GS–18 when engaged in the work of the National Employment Opportunities Council, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

(f) The National Employment Opportunities Council is authorized, without regard to the civil service laws, to engage such technical assistance as may be required to carry out its functions; to obtain the services of such full-time professional, technical, and clerical personnel as may be required in the performance of its duties, and to contract for such assistance as may be necessary.

REPORTS

SEC. 405. (a) The Secretary of Labor shall make such reports and recommendations to the President as he deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and his recommendations for the succeeding fiscal year, and the President shall transmit to the Congress within sixty days after the beginning of each regular session a report pertaining to manpower requirements, resources, utilization, and training.

(b) The Secretary of Labor and the Secretary of Health, Education, and Welfare shall

report to the Congress on the extent to which community colleges, area vocational and technical schools and other vocational educational agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part from provisions of this and related Acts, the extent to which administrative steps have been taken and are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act and may further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish their objectives of providing employment and training opportunities to all persons needing occupational training.

(c) The Secretary shall transmit to the Congress at the earliest appropriate date, but not later than March 1, of each calendar year a report setting forth a description of summer work experience programs to begin in June of such year, including the number of opportunities in public and private agencies or organizations that will be provided to disadvantaged students in ninth through twelfth grades (and to youth of equivalent ages), in each of the several States and local areas within States, and a statement as to the total number of such persons who would be eligible for such programs, together with his recommendations, if any, for supplemental appropriations for such programs.

(d) The Secretary, through the Bureau of Labor Statistics, shall annually compile and maintain information on the incidence of unemployment among offenders and shall publish the results of the information obtained pursuant to this subsection in the report required under subsection (a) of this section.

(e) The Chairman of the United States Civil Service Commission, in consultation with the Secretary, shall report to the President and to the Congress no later than six months after the effective date of this Act on the extent to which and manner in which employment opportunities for offenders may be increased in the Federal service, with special reference to the criteria used in determining the suitability of offenders for Federal employment, including such recommendations for additional legislation as they deem advisable.

ADMINISTRATIVE PROVISIONS

SEC. 406. (a) The Secretary may make such grants, contracts, or agreements, establish such procedures (subject to such policies, rules, and regulations as he may prescribe in accordance with section 403 of this Act), and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(b) The Secretary is authorized to exercise all powers necessary for the implementation of this Act, including the power (1) to rent or renovate real property without regard to any other law or regulation governing rental or renovation of such property, provided he first advises the Administrator of General Services Administration of his intent to do so and the reasons therefor, (2) to purchase real property for training centers, (3) to accept and use gifts and voluntary services for the benefit of the program, (4) to enter into contracts or agreements, (5) to make such payments in advance or by way of reimbursement as he may deem to be necessary or appropriate to carry out the provisions of the Act, and (6) to expend, without regard to the provisions of any other law or regulation, funds made available for purposes of this Act for printing and binding.

COOPERATION AND AGENCIES

SEC. 407. (a) 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 services and facilities as he may request for his assistance in the performance of his functions under this Act.

(b) The Secretary shall carry out his responsibilities under this Act through the utilization, to the extent appropriate, of all available resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies, and other appropriate public and private organizations and facilities, with their consent.

INTERSTATE AGREEMENTS

SEC. 408. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

LABOR MARKET INFORMATION

SEC. 409. (a) In addition to the monthly national unemployment statistics, the Secretary shall gather by survey and publish on a regular basis data on unemployment, underemployment, and job vacancies by States, labor market areas, rural areas, cities, and poverty neighborhoods.

(b) For purposes of this section, underemployment shall include persons who have part-time work but desire full-time work, discouraged workers not in the labor force, and persons earning less than the Federal minimum wage. Separate data shall be collected and compiled showing the total number of persons earning wages at levels lower than that sufficient to provide an annual income at the level of the lower living standard budget, as determined annually by the Bureau of Labor Statistics of the Department of Labor.

(c) Vacancy data shall include information on (1) how many unfilled jobs are available in the economy, by industry and occupation, (2) what are the capability requirements of such jobs, (3) salaries, wages, and other benefits of such jobs, (4) where jobs are located, and (5) how many and what kind of jobs remain unfilled for sixty days and for ninety days.

(d) The Secretary shall set aside, out of sums available under section 202(a)(2) of this Act, an amount which he determines is necessary and appropriate to enable him to carry out the provisions of this section, and shall no later than thirty days after such sums are made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness.

TITLE V—PUBLIC SERVICE EMPLOYMENT

STATEMENT OF FINDINGS AND PURPOSES

SEC. 501. The Congress finds and declares that—

(1) times of high unemployment severely limit the work opportunities available to both men and women in the general population, especially low-income persons and imigrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds generally associated with substantial unemployment and underemployment;

(2) expanded work opportunities fail, in times of high unemployment, to keep pace with the increased number of persons in the labor force, including the many women who are entering or reentering the labor force, the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter, or reenter the labor force;

(3) in times of high unemployment, many low-income persons are unable to secure or retain employment, making it especially difficult to become self-supporting and thus increasing the number of welfare recipients;

(4) many of the persons who have become unemployed or under-employed as a result of technological changes or as a result of shifts in the pattern of Federal expenditures, as in the defense aerospace, and construction industries, could usefully be employed in providing needed public services;

(5) it is appropriate during times of high unemployment to fill unmet needs for public services in such fields as environmental quality, health care, housing and neighborhood improvements, recreation, education, public safety, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, crime prevention and control, prison rehabilitation, and other fields of human betterment and public improvement;

(6) programs providing transitional employment in jobs providing needed public services and related training and manpower services can be a useful component of the Nation's manpower policies in dealing with problems of high unemployment and dependency upon welfare assistance, and providing affected individuals with opportunities to develop skills and abilities to enable them to move into other public or private employment and other opportunities; and

(7) providing resources for transitional public service employment and related training and manpower services during an economic slowdown can help as an economic stabilizer both to ease the impact of unemployment for the affected individuals and to reduce the pressures which tend to generate further unemployment including a description of the special methods to be used to acquaint persons of limited English-speaking ability with the availability of public service jobs funded under this Act.

It is therefore the purpose of this Act to provide unemployed and underemployed persons with transitional employment in jobs providing needed public services during times of high unemployment and, wherever feasible, related training and manpower services to enable such persons to move into employment or training not supported under this Act.

FINANCIAL ASSISTANCE

SEC. 502. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this Act in order to make financial assistance available during times of high unemployment for the purposes of providing transitional employment for unemployed and underemployed persons in jobs providing needed public services, and training and manpower services related to such employment which are otherwise unavailable, and enabling such persons to move into employment or training not supported under this Act.

(b) Not less than 85 per centum of the funds appropriated pursuant to this Act shall be expended only for wages and em-

ployment benefits to persons employed in public service jobs pursuant to this Act.

ELIGIBLE APPLICANTS

SEC. 503. Financial assistance under this Act may be provided by the Secretary only pursuant to applications submitted by eligible applicants which shall be—

(1) units of Federal, State, and general local government; or

(2) public agencies and institutions which are subdivisions of State or general local government, and institutions of the Federal Government; or

(3) Indian tribal organizations.

SPECIAL EMPLOYMENT ASSISTANCE

SEC. 504. (a) The Secretary shall enter into agreements with eligible applicants meeting the criteria set forth in subsection (b) in order to make financial assistance available, in accordance with the provisions of this Act, for the purpose of providing employment, for unemployed and underemployed persons residing in areas of substantial unemployment, in jobs providing needed public services.

(b) For the purpose of this section—

(1) "areas of substantial unemployment" means any area of sufficient size and scope to sustain a public service employment program and which has a rate of unemployment equal to or in excess of 6 per centum for three consecutive months as determined by the Secretary; and

(2) "eligible applicant" means any unit or combination of units of general local government or any public agency or institution which is a subdivision of any such unit, or an Indian tribe on a Federal or State reservation, which is or has within it an area of substantial unemployment.

(d) Whenever the Secretary makes any determination required by this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

APPLICATIONS

SEC. 505. (a) Financial assistance under this Act may be provided by the Secretary for any fiscal year only pursuant to an application which is submitted by an eligible applicant and which is approved by the Secretary in accordance with the provisions of this Act. Any such application shall set forth a public service employment program designed, in times of high unemployment, to provide transitional employment for unemployed and underemployed persons in jobs providing needed public services and, where appropriate, training and manpower services related to such employment which are otherwise unavailable, and to enable such persons to move into employment or training not supported under this Act.

(b) Programs assisted under this Act shall, to the extent feasible, be designed with a view toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training, or

(4) providing transitional public service employment which will enable the individuals so employed to move into public or private employment or training not supported under this Act.

(c) An application for financial assistance for a public service employment program under this Act shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this Act will be administered by or under the supervision of the applicant, identifying any agency or institutions designated to carry out such activities or services under such supervision;

(2) a description of the area to be served by such programs, and a plan for effectively serving on an equitable basis the significant segments of the population to be served, including data indicating the number of potential eligible participants and their income and employment status;

(3) assurances that special consideration will be given to the filling of jobs which provide sufficient prospects for advancement or suitable continued employment by providing complementary training and manpower services designed to (A) promote the advancement of participants to employment or training opportunities suitable to the individuals involved whether in the public or private sector of the economy, (B) provide participants with skills for which there is an anticipated high demand, or (C) provide participants with self-development skills, but nothing contained in this paragraph shall be construed to preclude persons or programs for whom the foregoing goals are not feasible or appropriate;

(4) plans for providing public service jobs supported under this Act to disabled veterans or veterans of the Vietnam era residing in the area served, including (A) the commitment that by the end of the fiscal year ending June 30, 1974, not less than 50 per centum of all public service jobs supported under this Act will be filled by such veterans and the specific steps to be undertaken during such fiscal year for progressing toward the achievement of such commitment, and the commitment to maintain not less than such per centum during the succeeding fiscal year, except that the requirements set forth in this clause may be modified (in accordance with regulations which the Secretary shall prescribe) to the extent appropriate where there are not a sufficient number of job openings in the program or the population of such area does not include a sufficient number of such veterans who are unemployed or underemployed, (B) descriptions of the types of jobs to be made available to such veterans, with special emphasis on the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service, (C) the special efforts to be made by the applicant to acquaint such veterans with the program and the public service jobs available to veterans under this Act, and (D) the method the applicant proposes to utilize to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to Job Counseling and Employment Services for Veterans), or carried out by other public or private organizations or agencies;

(5) assurances that, to the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector as the unemployment rate recedes;

(6) assurances that due consideration be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(7) a description of the methods to be used to recruit, select, and orient participants, including specific eligibility criteria, and programs to prepare the participants for their job responsibilities;

(8) a description of unmet public service needs and a statement of priorities among such needs;

(9) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration which participants would be assigned to such jobs;

(10) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer;

(11) where appropriate, the education, training, and supportive services (including counseling and health care services) which complement the work performed;

(12) the planning for and training of supervisory personnel in working with participants;

(13) a description of career opportunities and job advancement potentialities for participants;

(14) assurances that procedures established pursuant to section 507(a) will be complied with;

(15) assurances that agencies and institutions to whom financial assistance is made available under this Act have undertaken, or will undertake, analyses of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers to public employment of those whom it is the purpose of this Act to assist;

(16) assurances that the applicant will, where appropriate, maintain or provide linkages with upgrading and other manpower programs for the purpose of (A) providing those persons employed in public service jobs under this Act who want to pursue work with the employer, in the same or similar work, with opportunities to do so and to find permanent, upwardly mobile careers in that field, and (B) providing those persons so employed, who do not wish to pursue permanent careers in such field, with opportunities to seek, prepare for, and obtain work in other fields;

(17) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed [persons] persons who are from economically disadvantaged backgrounds or have been unemployed for not less than fifteen weeks immediately prior to employment under such program, except that the requirements set forth in this paragraph (a) are authorized to be modified (in accordance with regulations which the Secretary shall prescribe) to the extent appropriate to provide public service jobs for persons unemployed as the result of the closing of a Defense Department facility or reduction in activities at a Defense Department facility sufficient to cause a substantial increase in unemployment;

(18) assurances that the program will, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged;

(19) assurances that due consideration will be given to employing welfare recipients who want and are available for work and that appropriate linkages will be established and maintained with welfare agencies and with other programs making special efforts to assist welfare recipients to become self-sufficient;

(20) assurances that not more than one-third of the participants in the program will be employed in a bona fide professional capacity (as such term is used in section 13(a)(1) of the Fair Labor Standards Act of 1938), except that this paragraph shall not be applicable in the case of participants employed as classroom teachers, and the Secretary may waive this limitation in exceptional circumstances; and

(21) such other assurances, arrangements, and conditions, consistent with the provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

APPROVAL OF APPLICATIONS

SEC. 506. An application, or modification or amendment thereof, for financial assistance under this Act may be approved only if the Secretary determines that—

(1) the application meets the requirements set forth in this Act;

(2) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances or other provisions of law warrant the waiver of this requirement.

(3) an opportunity has been provided to officials of the appropriate units of general local government to submit comments with respect to the application to the applicant and to the Secretary;

(4) an opportunity has been provided to the Governor of the State to submit comments with respect to the application to the applicant and to the Secretary; and

(5) an opportunity has been provided to labor organizations representing employees who are engaged in similar work in the same area to that proposed to be performed under the application to submit comments with respect to the applications to the applicant and to the Secretary.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

SPECIAL RESPONSIBILITIES OF THE SECRETARY

SEC. 507. (a) The Secretary shall establish procedures for periodic reviews by an appropriate agency of the status of each person employed in a public service job under this Act to assure that in the event that any person employed in a public service job under this Act and the reviewing agency finds that such job will not provide sufficient prospects for advancement or suitable continued employment, maximum efforts shall be made to locate employment or training opportunities providing such prospects, and such person shall be offered appropriate assistance in securing placement in the opportunity which he chooses after appropriate counseling.

(b) The Secretary shall review the implementation of the procedures established under subsection (a) of this section six months after funds are first obligated under this Act and at six-month intervals thereafter.

(c) The Secretary shall set aside for each fiscal year, out of sums available to carry out this title, an amount, not to exceed 1 per centum, which he determines is necessary and appropriate to enable him to provide for technical assistance to eligible applicants seeking to comply with the requirements of this Act (including such assistance as is necessary to assist such applicants to comply with assurances made pursuant to subparagraph (15) of section 505(c) of this Act) and a continuing evaluation of programs assisted under this Act and their impact on related programs; and shall no later than thirty days after such sums are made available notify the appropriate committees of the Congress of the amount so set aside and the basis for his determination of need and appropriateness."

SPECIAL PROVISIONS

SEC. 12. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for existing federally assisted jobs;

(2) persons employed in public service jobs under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(3) funds under this Act will not be used to pay persons employed in public service jobs under this Act at a rate in excess of $12,000 per year;

(4) all persons employed in public service jobs under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) no funds under this Act will be used for the acquisition of or for the rental or leasing of supplies, equipment, materials, or real property;

(8) every participant shall be advised, prior to entering upon employment, of his rights and benefits in connection with such employment;

(9) no funds under this Act will be used to hire any person to fill a job opening created by the action of an employer in laying off or terminating the employment (except for cause pursuant to applicable personnel procedures) of any regular employee not supported under this Act.

(b) Consistent with the provisions of this Act, the Secretary shall make financial assistance under this Act available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis in accordance with the purposes of this Act among significant segments of the population of unemployed persons, giving consideration to the relative numbers of unemployed persons in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and other policies as may be necessary to promote the effective use of funds.

(e) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installations and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(f) The Secretary shall not provide financial assistance for any program under this Act unles he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and unemployment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdown between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a State, regional, and national basis, and shall include such information in the report required by section 13 of this Act.

(g) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(h) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

(i) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

SPECIAL REPORT

SEC. 509. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this Act, including information derived from evaluations required by sections 507(c) and 508(f) of this Act and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, (2) segments of the population of unemployed persons are provided public service opportunities in accordance with the purposes of this Act.

DEFINITIONS

SEC. 510. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor.

(2) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollu-

tion control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

(4) "health care" includes, but is not limited to, preventive and clinical medical treatment, voluntary family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services.

(5) "unemployed persons" means—

(A) persons who are without jobs and who want and are available for work; and

(B) adults who or whose families receive money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and the determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed;

(6) "underemployed persons" means—

(A) persons who are working part-time but seeking full-time work;

(B) persons who are working full-time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget;

(7) "disabled veteran" means a person defined as a "disabled veteran" in section 2011(1) of title 38, United States Code and "veteran of the Vietnam era" means a person defined as a "veteran of the Vietnam era" in section 2011(2)(A) of such title;

(8) "veterans outreach" means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38.

(b) As used in section 508(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public agency or institution which is a subdivision of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction.

EFFECTIVE DATE

SEC. 511. The determination to be made under section 5(b) shall take into account the rate of unemployment for a period of three consecutive months even though all or part of such period may have occurred prior to the enactment of this Act.

The title is amended to read as follows:

To provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes.

Mr. NELSON. Mr. President, in July of this year, the Senate passed two separate bills in the manpower field: S. 1559, the Job Training and Community Services Act of 1973, and S. 1560, the Emergency Employment Amendments of 1973.

The House of Representatives has now passed a comprehensive manpower bill. The bill the House passed includes both manpower provisions and a public service employment title. The Senate had, as I have just pointed out, passed separate bills—one for manpower and the other for public service employment. The purpose of the pending motion is to get the comparable provisions of the separately passed Senate legislation on public service employment into conference along with the manpower legislation. The House, after passing their comprehensive manpower bill, proceeded in the usual manner to take the previously passed Senate manpower bill (S. 1559) off the Speaker's desk, and struck all after the enacting clause and inserted in lieu thereof the text of the House-passed bill. The House then adopted a motion to insist upon their amendments and asked for a conference with the Senate thereon.

Those actions by the House are set forth in the message from the House which I have just asked the chair to lay before the Senate.

The pending motion I have offered simply substitutes in lieu of the House amendments the text of the Senate-passed bill on manpower (S. 1559) and the public service employment legislation passed by the Senate (S. 1560)—with this exception: The authorization for the nationwide public service employment program—for which the Senate-passed bill had continued the fiscal year 1973 authorization of $1 billion—is dropped from the language we propose sending to conference.

The House did not include the nationwide program in their bill. In other words, the House bill only extends the program for areas of substantial unemployment. The House does make a significant change, however. The House-passed bill changes the definition of areas of substantial unemployment to include only local areas in excess of 7-percent unemployment. The Senate-passed bill extended the current law's definition of such areas as those having in excess of 6-percent unemployment. The pending motion would assure that there would be no doubt that the Senate-passed definition of areas of substantial unemployment would be an issue in conference.

Let me reiterate that the motion I am offering would not put in conference the issue of the $1 billion nationwide program. That is dropped from the bill at this time, because the House would not go along with it in reaching a compromise with the administration to avoid a veto.

In accordance with our agreement with the administration, all dollar authorizations are deleted and the Senate provisions going into conference would simply authorize such sums as may be necessary.

Mr. President, this has been agreed upon by both sides, as well as the administration representative, which the Senator from New York will confirm.

Mr. JAVITS. Mr. President, this procedure is satisfactory to me. Senator TAFT joined us in a meeting yesterday, and it is satisfactory to him. He is the minority Senator who is very much interested.

It is simply a technique by which we can take two Senate bills and bring them to conference with the House, in order to meet the respective issues of both the positions of the House and of the Senate.

We have also consulted administrative representatives on this score, and they see no objection to endeavoring to bring the matter to issue in the House-Senate conference in this way.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin (Mr. NELSON) to concur in the House amendment with an amendment in the nature of a substitute.

The motion was agreed to.

Mr. NELSON. Mr. President, I move that the Senate insist upon its amendment to S. 1559 and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. NUNN) appointed Mr. NELSON, Mr. RANDOLPH, Mr. KENNEDY, Mr. MONDALE, Mr. CRANSTON, Mr. HUGHES, Mr. HATHAWAY, Mr. JAVITS, Mr. DOMINICK, Mr. SCHWEIKER, Mr. TAFT, and Mr. BEALL conferees on the part of the Senate.

The title was amended so as to read: To provide financial assistance to enable State and local governments to assume responsibilities for job training and community services, and for other purposes.

AMENDMENT OF THE INTERNATIONAL TRAVEL ACT OF 1961

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 1747.

The PRESIDING OFFICER (Mr. NUNN) laid before the Senate the amendments of the House of Representatives to the bill (S. 1747) to amend the International Travel Act of 1961 with respect to authorizations of appropriations, which were to strike out all after the enacting clause, and insert:

That (a) the first sentence of section 6 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended to read as follows: "For purposes of carrying out the provisions of this Act, there is authorized to be appropriated an aggregate amount not in excess of (1) $15,000,000 for the fiscal year ending June 30, 1974; (2) $20,000,000 for the fiscal year ending June 30, 1975; and (3) $25,000,000 for the fiscal year ending June 30, 1976.".

(b) In determining whether appropriations for the fiscal year ending June 30, 1974, for carrying out the International Travel Act of 1961 exceed $15,000,000 in the aggregate, any appropriation made to carry out such Act for such fiscal year before the date of enactment of this Act shall be included.

SEC. 2. (a) There are hereby transferred to and vested in the Secretary of Commerce all functions, powers, and duties of the Secretary of the Interior and other offices and officers of the Department of the Interior under the Act of July 19, 1940 (54 Stat. 773; 16 U.S.C. 18–18d).

(b) The assets, liabilities, contracts, property, records, authorizations and allocations, employed, held, used, rising from, available or to be made available in connection with the functions, powers, and duties transferred by subsection (a) of this section are hereby transferred to the Secretary of Commerce.

And to amend the title so as to read:

An Act to amend the International Travel Act of 1961 to authorize appropriations for fiscal years 1974, 1975, and 1976, and for other purposes.

Mr. MANSFIELD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretray of the Senate reported that today, December 5, 1973, he presented to the President of the United States the following enrolled bills and joint resolution:

S. 1618. An act to name the headquarters building in the Geological Survey National Center under construction in Reston, Va., as the "John Wesley Powell Federal Building";

S. 2503. An act to name a Federal office building in Dallas, Tex., the "Earl Cabell Federal Building";

S. 2641. An act to confer jurisdiction upon the court of the United States of certain civil actions brought by the Senate Select Committee on Presidential Campaign Activities, and for other purposes; and

S.J. Res. 155. A joint resolution authorizing the securing of storage space for the U.S. Senate, the U.S. House of Representatives, and the Office of the Architect of the Capitol.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. NUNN) laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The PRESIDING OFFICER (Mr. NUNN). Under the previous order, the Chair lays before the Senate S. 1283, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD Mr. President, in relation to the pending business, and on the authority of the distinguished chairman of the committee, the Senator from Washington (Mr. JACKSON), I am empowered at this time, with the concurrence of the Republican leadership, to ask that on the motion to be laid before the Senate by the Senator from Illinois (Mr. PERCY), to refer the pending bill to the Government Operations Committee for further study and, I think, report back within 60 days, there be a one-hour time limitation, with the time to be equally divided between the Senator from Illinois who will be the sponsor of the motion and the manager of the bill.

The PRESIDING OFFICER. (Mr. HELMS). Is there objection to the request of the Senator from Montana?

Mr. CHILES. Mr. President, will the Senator from Montana yield?

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

Mr. MANSFIELD. I would suggest that the proposal be made now by the Senator from Illinois and start the debate.

Mr. CHILES. Mr. President, will the Senator from Montana yield to me briefly?

Mr. MANSFIELD. I yield to the Senator 1 minute from the time on the bill.

Mr. CHILES. I wanted to ask the majority leader a question. I have not been on the floor all of the time this morning, but I wonder whether he would give us any indication about what it looks like for the weekend, and whether he thinks that there will be a Sunday session or not? [Laughter.]

Mr. MANSFIELD. I did not get the last part of the question.

Mr. CHILES. I wonder whether we would have a Sunday session this Sunday.

Mr. MANSFIELD. There will be no Sunday sessions for the remainder of this year, but the notice which was sent out to all Senators indicates that we may spend a couple of days on the energy R. & D. bill. We hope that the HEW conference report will be available tomorrow or the next day. There will also be a conference report on military construction. There will be other measures, perhaps one having to do with legal services for the OEO. Then, next week, we will have the two Special Prosecutor bills. We will have the railroad bill. So, we can expect a pretty heavy schedule. But, to emphasize the point, there will be no more Sunday meetings.

Mr. CHILES. May I go back to Saturdays, to determine whether we will have Saturday sessions?

Mr. MANSFIELD. I cannot say at this time, but we should know for sure by tomorrow. If there is something we can accomplish constructively, we will be in on Saturday, but not just to be in on a Saturday.

Mr. HUGH SCOTT. Mr. President, is the distinguished majority leader prepared to make any comment on the status of the emoluments bill at this time, or is that pending some discussion?

Mr. MANSFIELD. No; that is being held at the desk because of an amendment which the House added to it. We will have to await the return of the Senator from Wyoming (Mr. MCGEE) who, I understand, is detained on official business and should be in shortly; then, when he returns, we will be able to find out what can be worked out.

I would like to see the emoluments bill brought up and passed as rapidly as possible, so that the way can be paved for the President to send down the nomination of Senator SAXBE.

Mr. HUGH SCOTT. That was the purpose of my question.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the motion to be made by the Senator from Illinois (Mr. PERCY) to refer the pending bill to the Government Operations Committee. I ask that it be in order at this time, even though the motion has not been made.

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

Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

Mr. PERCY. Mr. President, I send to the desk my motion and ask that it be stated.

The PRESIDING OFFICER. The motion will be stated.

The assistant legislative clerk read as follows:

Mr. PERCY. Mr. President, I move that S. 1283, the National Energy Research and Development Policy Act of 1973, be referred to the Committee on Government Operations for a period not to exceded 60 days.

Mr. PERCY. Mr. President, as stated by the President in his energy statement of June 29, the administration has pressed for an Energy Research and Development Administration—ERDA—as the best organizational approach to the management of Federal energy research and development responsibilities. Legislation calling for the creation of ERDA, the related Nuclear Energy Commission—NEC—and the Department of Energy and Natural Resources—DENR—was transmitted to Congress at that time. Hearings were held in both the House and Senate Government Operations Committees in early August at which Mr. Ash, Governor Love, AEC Chairman Ray, and others stated the administration position.

On November 7, President Nixon again addressed the Nation on the energy shortage. In that statement, he asked for prompt congressional consideration of ERDA and NEC separate from the DENR proposal. This has been made possible by the separate introduction of H.R. 11510 and S. 2744, which propose the creation of ERDA and NEC. Hearings have just been completed in the House in which administration witnesses have explained this organization proposal in depth, and outside witnesses have also presented their views. Senate hearings are being conducted this week.

Throughout this entire period of time, various Executive Office people have backed up these public statements with extensive and continuous contacts and discussions with the principals and staffs of both Government Operations Committees, the Joint Committee on Atomic Energy, with the Interior Committee, and with others who had appropriate interests and concerns. To date there has been a gratifying spirit of cooperativeness on the part of both the majority and minority.

I think it has been clearly understood that the administration strongly prefers

the ERDA/NEC organization concept to the several organizational approaches which have been included in successive drafts of S. 1283.

I understand that Senator JACKSON has, on a number of occasions, discussed the ERDA legislation (both S. 2744 and S. 1283) with Senator RIBICOFF who, as chairman of the Subcommittee on Executive Reorganization and Government Research of the Government Operations Committee has jurisdiction over S. 2744. The administration has discussed with Senator RIBICOFF its position on S. 2744 and its relationship with S. 1283.

I summarize these various Presidential statements, public hearings, and staff contacts because I believe they demonstrate a serious attempt by the administration to work with the Congress in the development and enactment of what we firmly believe to be a realistic and carefully conceived new organization which will be capable of a rapid buildup and effective management of a balanced program of energy research and development.

If, unfortunately, this has meant a conflict of views with respect to S. 1283, they have at least openly worked for what they thought was the best solution.

I am convinced of the soundness of the ERDA/NEC legislation, and feel we should continue to press for its enactment.

The PRESIDING OFFICER. Who yields time?

Mr. MANSFIELD. Mr. President, I ask unanimous consent to suggest the absence of a quorum with the time to be taken out of both sides equally.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. FANNIN. 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. FANNIN. Mr. President, I ask unanimous consent that the following staff members of the minority staff and my staff be given floor privileges during the debate and vote on S. 1283: Harrison Loesch, Fred Craft, David Stang, Roma Skeen, Jean Schiffman, and Maureen Finerty.

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

Mr. FANNIN. Mr. President, I oppose the referral of this bill to the Government Operations Committee. Many members of the Interior Committee have been working on this legislation for the past several months, trying to get something through that will be operational. We feel that we have accomplished a great deal in this bill. It would be regrettable for it to be delayed at all.

The problems now facing this Nation are critical. Consequently, it does not seem practical to delay this matter further. It is the hope of the committee members, both the minority and the majority, that we will be able to get the bill passed and over to the House and approved before the adjournment. It is essential that we do so if we are going to meet our obligations to the people of this Nation. We cannot just sit idly by and not take the actions that can be taken, which are essential to supplying energy for the people and for the industries which supply jobs for people and the critical needs we have throughout the country that are now being threatened.

It is absolutely necessary that we go forward with this legislation. We have been working diligently this year in committee conducting emergency meetings, conducting extensive hearings, and conducting many executive sessions. Consequently, it is essential that we go forward at this time.

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

Mr. FANNIN. I yield.

Mr. JACKSON. Mr. President, I ask unanimous consent that the following staff members of the Committee on Interior and Insular Affairs be permitted the privilege of the floor in connection with the measure now before the Senate: William J. Van Ness, Daniel Dreyfus, Grenville Garside, Lucille Langlois, Richard Grundy, F. J. Barnes, Gerry Kline, Brent Kunz, Nolan McKean, Ron Frank, and David Russell.

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

Mr. JACKSON. Mr. President, I shall be very brief.

I am amazed by this motion. I have heard these rumors. The Director of OMB once again is on the scene. The Office of Management and Budget had indicated, first, that Senator ERVIN was going to make this motion. I talked to Senator ERVIN, and he said he never heard of it. Then they said that Senator RIBICOFF was going to make the motion, and he had not heard of it.

At a time when the President is saying that we have not been moving in the Congress on some of these bills, it so happens that this bill was introduced in March 19 of this year. We have held extensive hearings. We commissioned a study which cost $11,000, an outstanding one—made by Resources for the Future—which is tied to this effort. We have held extensive hearings. No one from any committee has raised a question about this bill so far as the organization is concerned.

The original organizatior structure is basically what it was when it was introduced on March 19.

So, Mr. President, if Senators are interested in delaying a massive $20 billion R. & D. effort to make this Nation self-sufficient, they ought to vote for this motion.

Let us not try to kid anybody. We are getting near the end of this session, and a motion to re-refer this bill is a motion to delay it.

I am proud of the statement of the Senator from Arizona, the ranking minority member, who is opposing the motion. I am proud that we have proceeded on a bipartisan basis. Every member of the Interior Committee is cosponsoring this bill. If that is not enough, 50 Senators are cosponsoring the bill.

Where have these people been since March? Why did they not speak out about the energy problem? The language regarding the organization is almost exactly the way it was in March. I do not mind a little nonsense, but this is one of the biggest forms of nonsense.

We have had ample time to hear from other committees. We have worked closely with the administration.

The PRESIDING OFFICER. There will be order in the Senate. The Senator is entitled to be heard. Senators will take their seats.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The Senator will withhold until we have order in the Senate.

The Senator may proceed.

Mr. JACKSON. Mr. President, OMB has, of course, opposed the bill. The administration opposed the bill until July, when they announced a $10 billion program, which was outlined just the day before yesterday, by the way, in specific form. I do not know why the OMB comes around at the last minute. They favored a veto of the Alaskan pipeline bill and I am appreciative of the fact the President did not follow that bad advice.

I hope my Republican friends will not follow bad advice by voting tc rerefer this bill. They could have come to the Interior Committee; they could have written a letter to the committee stating their concern; they could have asked to be heard, but they did not.

Mr. President, my position here is supported by a solid, bipartisan, unanimous group of the Committee on Interior and Insular Affairs that are acting as cosponsors of this measure.

Finally, is this the time to dawdle and refer this bill back when we are told, and it is obviously so, that we are in a serious energy crisis; when we have been working diligently on it since last March?

We provide here for an interim organization to administer this program; and when the permanent organization is worked out, then we will be in a position to assign this program to that permanent organization.

The organization started out the first of the year and I introduced the bill called DENR, the Department of Energy and Natural Resources. I introduced the bill and it had a provision on energy administration. But since then an ERDA program has been proposed that is very confused and needs a lot of study. If we were to wait until they iron out all the wrinkles in energy administration, we would endanger, in my judgment, the Nation from a military and a national security point of view. In addition, we would be endangering the health of our economy.

All one has to do is look at what is going on in the stock market these days, with the fear that we are getting into a recession, and I cannot think of any worse news to send to the economic community than that we have re-referred the bill, the thing everyone is working toward.

Mr. President, I conclude simply by saying I am proud of the support of the ranking minority member of the committee and the members of the committee who have supported the measure.

I yield to my good friend, the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. RANDOLPH. Mr. President, I have asked the Senator from Washington (Mr. JACKSON) who is chairman of the Committee on Interior and Insular Affairs, to yield to me for the purpose of undergirding his comments about the more than 7½ months that this measure has been under active consideration in the Committee on Interior and Insular Affairs. Frankly, the provisions in this measure also have been under active consideration by the ad hoc fuels and energy policy study group which, in effect, is the Interior Committee, the Commerce Committee, the Public Works Committee, and the Joint Committee on Atomic Energy.

That group was commissioned by the Senate to study our fuel and energy problems, and, hopefully, to recommend national long-term fuels and energy policy—not just the short-range palliative for this present need to conserve fuels and energy. The long-term look is absolutely necessary.

I hope my colleague from Illinois will not feel that what I am now saying is not appropriate. But earlier today he referred to the "energy fad." This is not a "fad." There is, Mr. President, an energy crisis which deepens by the hour—perhaps even by the minute. I think that most Members of this body realize that we have a crisis condition that could grow, perhaps, into a chaotic condition which could stretch across the whole spectrum of the American society. The economy of our country, the gainful employment of our people, and certainly the need to become self-sufficient in energy supplies are at stake. The central premise of the legislation now pending before us is to build for the future through more adequate research and development.

Mr. President, I would not plead, of course, but I appeal to Members of the Senate to remember what the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN) have said—this is a bipartisan approach; this is the creation of diligent work at staff and senatorial levels on this bill over a period of 7½ months, and more than 2 years on the ingredients, as I have indicated, which are part and parcel of this measure.

I trust that Senators will have the opportunity, hopefully in a very few minutes, to give the go-ahead for immediate floor action so that debate may proceed on the measure. There will be enactment, and, yes, the signature of the President of the United States, because this is a vitally important proposition.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. RANDOLPH. I am happy to yield.

Mr. DOMENICI. Is it not true that the committee that considered this matter also invited on a regular basis, by formal notice, all members of the so-called 45 study group, and that group is made up of members of the Committee on Public Works—I am a designee in lieu of the Senator from Tennessee (Mr. BAKER)—the Committee on Commerce, and the Joint Committee on Atomic Energy. Each time they were notified and invited and, indeed, on a number of occasions they participated in deliberations regarding this bill.

Mr. RANDOLPH. The Senator is correct. There has been no effort to preclude participation by anyone in the Senate. In fact, we have brought to the consideration of this measure, as I must repeat, the broad substance of the bill over a period of more than 2 years and in the development of specific language, more than 7½ months.

Mr. JACKSON. Mr. President, the Senator from West Virginia introduced one of the first bills in 1961 in this area. Second, I would point out that this is not a reorganization plan; this is an interim administrative effort here to deal with the prosecution of an enormous nonnuclear research as fast as possible until a permanent program is worked out.

The Senator from New Mexico is so right in saying that we worked with other committees. The Senator from New Mexico participated in the markup. I have always followed that rule. Members of the Committee on Commerce participated. I am a member of the Joint Committee on Atomic Energy, and while it is not directly involved, they were invited. The Senator from New Mexico was most helpful in connection with the bill, and I commend him.

Mr. RANDOLPH. Mr. President, responding further to the question of the Senator from New Mexico, we should underscore the fact, and it is a fact, that in this measure we are attempting to bring private industry, with its knowledge, and government, with its responsibility for the people as a whole, into a partnership, a necessary partnership, if this job is to be done adequately and effectively.

Mr. DOMENICI. I thank the Senator. If I may have a moment or two, I wish to thank both Senators for their comments.

In all honesty I want to say that as a member of the Senate Resolution 45 group, and a designee of the Committee on Public Works, I was informed of every meeting in writing.

I attended, I participated, as if I were indeed a member of the Senate Interior and Insular Affairs Committee.

Further, I want to say as a new Member of this body I am frequently asked why it takes so long to get vital legislation. I do not intend, in supporting this measure and urging early action, to preclude anyone from offering his ideas or his amendments. I do not say we should act on it by tomorrow, or Monday, or Tuesday, but I think that the process of referring it to a committee is the kind of process that is of concern to the American people, particularly when it concerns the problem of energy and not a reorganization plan, when we talk about that or something about its being transferred to the permanent R. & D. agency.

I thank the Senator from Washington for having brought the measure to the point where it now is, and I support early dispatch of the bill.

Mr. RANDOLPH. Mr. President, just this comment. I say to my colleague from Illinois, for whom I have a personal affection, I listened carefully to the viewpoint he expressed. I feel this not only would be a delaying tactic, but that it has implications for disaster from the standpoint of the application of the Senate to the vital task of meeting the energy needs of this country now and in the future. I believe the American people want us to level with them. This is a measure that should move forward, with amendments being offered, of course, with careful consideration by Senators, with adequate debate, and then, of course, we should go directly to a final decision. I hope we can move speedily, but, of course, with due deliberation.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. Mr. President, I yield myself 5 minutes.

Mr. President, while the distinguished majority leader is on the floor, and the floor manager of S. 1283, and the chairman of the Government Operations Committee, as well as my colleague from West Virginia—and I hold him in the highest regard in this matter—I would like to state, first, that there is no intention on the part of the Senator from Illinois to delay unnecessarily these proceedings.

The Senator from Illinois is as aware as anyone else of the crisis we face, and I have deplored the lack of foresight and the fact that we have to work now with such great speed. I have publicly expressed my admiration for the work of the distinguished Senator from Washington in these matters. But we have today a proliferation of agencies, an overlapping of responsibilities, functions, and duties that almost boggles the mind. The administration has a tremendous responsibility now to straighten some of those out, but we also have a responsibility. We have a Government Operations Committee that has the oversight responsibility over the organization of the Federal Government; and we have had a continuing responsibility in that respect that we should not shirk.

To demonstrate that the interest and intention of the mover of this motion is only to see that we follow the logical committee procedure in the Senate and that in our haste today we do not waste time by not taking account of what effect this is going to have organizationally, and on what we should have for the long pull ahead, the Senator from Illinois would be very happy to modify this motion to limit the time. It should be a reasonable period of time, adequate, I would hope, for the Government Operations Committee to exercise its responsibility with respect to this major legislation. But also a short enough period of time so that no one could presume there is any intention to delay action by the Senate on this important matter.

Second, I would be happy to modify

the motion I have offered, so that it would be perfectly clear that the oversight exercise of the Committee on Government Operations would be limited in scope to the organizational provisions of S. 1283, the National Energy Research Policy Act. After all, the substantive matters have been thoroughly gone into by other committees. They are very important. Our jurisdiction in the Government Operations Committee is mainly for structure and organization, and the motion can be modified so to provide. If it would make the floor manager of S. 1283 more comfortable—he is a member of the Committee on Government Operations—I would suggest that we work out a time limitation that would be agreeable, and that we limit the scope and authority of the Committee on Government Operations.

We have just reported unanimously a bill that we have been working on in the Government Operations Committee for many, many months. It was looked upon as urgent legislation. The distinguished chairman of the committee (Mr. ERVIN) has labeled it the most important legislation that has ever been in Congress, in his judgment. Yet after our reporting of the bill unanimously, the leadership indicated that it should be referred to the Committee on Rules and Administration, and that has been established.

I appeal to Senators in this case, for this is a matter of principle. The Committee on Government Operations is concerned with the operations of the Federal Government. I am concerned for, and want to defend, the jurisdictional right of my own committee, which is clearly stated in the Senate rules.

The bill does set up in an agency, the energy research project. It has the authority to create projects as more or less public-private institutions. That is certainly a potential that could further complicate, confuse and fragment energy research and development at the Federal level. It may be that as a result of our oversight hearings, we might avoid overlapping. But at least the Committee on Government Operations should have the right, because it has the duty, to examine this legislation. Because we have an energy crisis we should not run pellmell ahead without any regard whatever for what this new organization does.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. PERCY. I yield myself 3 additional minutes.

The proposed legislation has certain aspects that may add to confusion, may add to further fragmentation, and may add more complexity to an already complex situation.

As I have stated earlier, the energy research management project is not proposed as a management agency. Rather, the role that is proposed is as a strategy planner and fund allocator.

We have as the distinguished Senator from Vermont knows from his work throughout the years in the Atomic Energy Commission and R. & D. in the AEC, Interior, EPA, and others, fragmentation will continue. Projects would not be integrated into a unified Federal research and development effort.

So there are several important issues that will be looked at. I think it would be a violation of the spirit and intent of the organization of Congress, and especially the Senate, if we set an example by saying that we are not going to look at this vast new Government function carefully. I think the committee with jurisdiction should have a reasonable period of time and an opportunity to do that.

Mr. President, in the motion that is before the Senate we ask for 60 days' consideration. Obviously we could not look at anything in less than 1 day. And the Government Operations Committee is in the middle of an emergency hearing on energy legislation that has been sent up by the administration, which is cosponsored by the distinguished Senator from Washington.

And if the distinguished Senator from Washington would indicate what he would consider to be a reasonable period of time and whether as a member of the Government Operations Committee he does not feel that the committee has the responsibility for organizational oversight—and there are organizational aspects in the present legislation—the Senator from Illinois would be happy to yield, on the Senator's time, for his response. Hopefully an amendment or modification could be worked out that would be acceptable.

Mr. JACKSON. Mr. President, I shall take about 1 or 2 minutes.

First of all, Mr. President, this is not a reorganization plan. This does not come within the jurisdiction of the Government Operations Committee. I have been on that committee ever since I have been a Member of the Senate, 21 years. I am familiar with the jurisdiction of that committee.

This is an interim management plan. We would be denounced if we delayed this bill or held it up. I am on the committee. I know what the backlog of the Government Operations Committee happens to be.

The administration has an emergency bill up here to direct the overall energy effort. Hearings start tomorrow. We will be on that for several days. And then we have the ERDA. We will be tied up in the Government Operations Committee until Christmas. That means that we could not get at it until January 1 or later.

Does the Senator want us to tie up research and development at a time when the whole world is looking to the United States to see if we are serious about implementing a program of energy self-sufficiency?

This bill has been subjected to exhaustive hearings, the most exhaustive hearings in many years. This has been a master research effort and a committing of the best minds in the country to focus on the problem.

The bill has been available since March 18. We have not received one communication from anyone objecting to this particular transitional organizational plan. We have not received a request that it be rereferred.

I think that the Senate has a very clear-cut decision: Whether or not we will delay the research and development after the hearings and a clear-cut opportunity to vote one way or the other. No matter how you look at this record, if one votes to recommit the bill, he is voting to delay and postpone a program that is unanimously supported by every member of the committee. The ranking minority member of the committee supports this bill and not a single member of the Government Operations Committee other than the Senator from Illinois supports a motion to recommit.

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

Mr. PERCY. Mr. President, I yield myself such time as I might require.

The distinguished Senator from Washington has made the statement that not a single member of the Government Operations Committee supports this motion.

I have been advised by the Senator from New York (Mr. JAVITS), a distinguished and long-time member of our committee, that he would be agreeable to referring it for 1 week to the Government Operations Committee. Certainly that indicates the intention of the Senator to vote for and to expeditiously handle this matter.

It was the understanding of the Senator from Illinois that the distinguished Senator from Tennessee (Mr. BROCK) would support the motion.

I would like to direct a question to the Senator from Washington. Is the Senator from Washington a cosponsor of the legislation commonly known as ERDA, the energy research and development legislation?

Mr. JACKSON. The Senator is correct. Did the Senator read my statement?

Mr. PERCY. I read the statement of the distinguished Senator and, in the Senator's absence—because he was not there at the time but merely gave the statement and had to leave as I stated for some overlapping responsibility—I felt obligated on behalf of the Senator to read certain of the statements that the Senator made in his opening statement to Mr. Ash. And I asked for his replies so that they could be on record.

I feel that when a Senator becomes a cosponsor of legislation it does indicate then some interest in seeing that that legislation is reported out and given consideration. Obviously it is here and is under consideration now.

As stated by the President in his energy message or statement of June 29, the administration has pressed hard for it. The administration has testified and the President has stated that in the judgment of the administration it is the best organizational approach to the management of Federal energy research and development responsibilities.

The legislation was introduced by the distinguished Senator from Connecticut (Mr. RIBICOFF) and cosponsored by the Senator from Illinois and by the Senator from Washington, although in a subsequent statement he indicated some reservations about the legislation. However, he very fairly indicated that the legislation should at least have a chance to be considered along with other legislation.

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

Mr. PERCY. I yield.

Mr. JACKSON. Mr. President, could the Senator explain why the administration, and the Office of Management and Budget in particular, did not avail themselves of the opportunity to send a letter specifically objecting to either this provision or to the bill in its entirety?

Mr. PERCY. S. 1283?

Mr. JACKSON. The Senator is correct.

Mr. PERCY. Mr. President, I was not familiar with whether the administration supported the bill all along.

Mr. JACKSON. They would seem opposed to the whole bill.

Mr. PERCY. This is why the Senator from Illinois put a question to the administration as to how they feel about S. 1283. That is the first time it was revealed to the Senator from Illinois. I had no knowledge whatsoever and had never discussed it with Mr. Ash, the Director of the OMB. This is the first knowledge I have had that the administration opposes the legislation.

Mr. JACKSON. Mr. President, does it not seem to the Senator a little late for the administration, having had since March, to now move to oppose all of S. 1283, a bill which has the unanimous support of the Committee on Interior and Insular Affairs?

I must say that this does not seem to me to be a responsive and cooperative effort to do the job on a bipartisan basis.

I do not think the views of OMB are really important to those in the administration who are truly familiar with the program and with the problems we face.

I think that a lot of the President's problems in the field of energy happen to come from OMB. And I am not alone in that view.

Mr. PERCY. Mr. President, I do not know the answer to why the administration for the first time, to my knowledge, testified that it opposed S. 1283.

Might I ask either one of my distinguished colleagues at what point an agency was designated or created as an agency in the legislation, or has that always been so?

Mr. JACKSON. Mr. President, when it was introduced. That was on March 18, 1973. Is not that long enough?

Mr. PERCY. Mr. President, the Senator from Illinois cannot explain, nor am I known to be a spokesman for the administration.

Mr. JACKSON. That is why I am confused by the motion.

Mr. PERCY. I have had no attitude concerning their views. What is important to me is the jurisdiction of the committee of which I am ranking Republican member, the Government Operations Committee—which has clear jurisdiction over the organizational aspects of this bill.

Mr. JACKSON. Mr. President, does the Senator realize why we have had such a foulup in the energy situation when the administration has had from March 18 until yesterday, at which time they at last advised us of their views?

Mr. PERCY. The Senator knows that they were at the hearings yesterday. And the Senator from Washington could not be present throughout the hearing.

But as I said yesterday in those hearings, I had never seen such a proliferation of alphabet-soup agencies, such a foul-up, and I asked Mr. Ash why it was necessary to have as many agencies of the Federal Government involved in overlapping, conflicting responsibilities and duties as we have in the energy field. We have the FEA, the FRDA, and DENR as well as S. 1283 proposed. We have the Energy Policy Office, the AEC, the EPA, the Interior Department, and Treasury.

It is for that very reason that the Senator from Illinois urges the Senate not to rush pell-mell ahead, without seeing what the overall organizational framework should be. The Senator from Illinois feels that there is an absolute right, a duty and an obligation of the Government Operations Committee to examine what effect S. 1283 would have on Government operations. Does it proliferate even further the problems we already have?

The unwillingness of the Senator from Washington to let the Government Operations Committee even take a short look at that one narrow aspect of the legislation amazes me. Haste makes waste in this kind of case. We have seen too many times when we have rushed pell-mell ahead without taking a good look.

Mr. JACKSON. Does the Senator feel we are rushing something through when it has been pending since March 18? This proposal to which the Senator is addressing himself has been before Congress since March 18. Are we rushing? Is that the Senator's position?

Mr. PERCY. I would say without any question that if the Senator would be unwilling to let the Government Operations Committee take, let us say, 7 days to look at this legislation, the Senator would be bearing the full responsibility for any complexity, for overlapping, for duplication and confusion that would result if this act became law.

Mr. JACKSON. Would the Senator——

Mr. PERCY. Mr. President, how much time does the Senator from Illinois have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. PERCY. I wish to reserve time to formally request modification of the amendment, but I yield myself 2 minutes for the purpose of advising my colleague as to the intention of the Senator from Illinois.

I first ask unanimous consent to modify the motion that is pending, so that it may be clear that the Government Operations Committee is limiting its jurisdiction only to organizational aspects of S. 1283, and so that the Government Operations Committee would have a period not to exceed 7 days.

Mr. JACKSON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PERCY. But I will withdraw that unanimous-consent request for a moment, to indicate that if that request is objected to, it would be the intention of the Senator from Illinois to move that the motion before us be amended in accordance with the modification I have described, and that the vote occur on that amendment prior to the vote on the motion itself.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is such a motion in order, with the yeas and nays ordered?

The PRESIDING OFFICER. When the time has expired, the Senator may submit an amendment to his motion, which would be in order.

Mr. JACKSON. I yield back my time.

Mr. PERCY. Mr. President, a parliamentary inquiry, for the information of the Senator from Illinois.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. The yeas and nays having been ordered, is it in order to ask unanimous consent to modify the pending motion?

The PRESIDING OFFICER. It is in order to ask unanimous consent.

Mr. PERCY. Mr. President, I ask unanimous consent that the pending motion be modified as follows: Strike the language following the words "Government Operations" and add "for a period of not to exceed one week. Provided, however, that the oversight exercised by the Government Operations Committee be limited to the organizational provisions of the National Energy Research and Development Policy."

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. Mr. President, reserving the right to object, I want to point out to the Senate that the Government Operations Committee is completely preoccupied, as the Senator knows or should know, through the next 7 days. We have the Federal Energy Administration bill before us, and we cannot do anything. We have hearings tomorrow and Friday. The first markup occurs on Wednesday, and that may take 2 or 3 days. So we cannot do it within a week. Therefore, I object to the unanimous consent request. It is not a reasonable request.

Mr. PERCY. Mr. President, that statement stretches credulity. These hearings are already scheduled, on this very issue. We could begin immediately, this afternoon, with the hearings chaired by Senator RIBICOFF, to take S. 1283 into account. There are narrow jurisdictional lines here. We are only looking at the organizational structure. It would certainly be wise to have all the witnesses appearing before us, including, tomorrow, the administration, be able to comment on the organizational effect of S. 1283, before the Senate rushes into a vote without having had the benefit of the views and counsel of the administration in this regard. I think that would be an act of irresponsibility, for the Senate not to be willing to listen to the administration in this matter, when we should be sharing responsibility, not trying to grab the credit, take the initiative, and rush ahead with our bill.

We have to remember that the legislature legislates, that we do not execute, we do not administer. We cannot force an organization down the executive branch's throat if they do not feel it wise or welcome, or have not even had a chance to comment, in the light of all the experience that we now have and the new situation that faces us.

I cannot understand why 1 week of careful looking at the matter would not benefit the Senate, and enable Senators to vote with far better breadth of experience and knowledge in this matter than just to rush ahead and vote, and then presumably say, "We have done something about the energy crisis." We know we have not. The House will not have acted. The House Government Operations Committee unanimously, today, voted out the ERDA bill, and I would say we would be wasting a great deal of time.

I therefore ask if there is any objection to the unanimous-consent request before the Senate.

The PRESIDING OFFICER. Objection has been heard.

Mr. PERCY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. The yeas and nays having been ordered on the pending motion, the Senator from Illinois wishes to move that the motion be modified. Would that motion be in order?

The PRESIDING OFFICER. The Senator cannot move that it be modified. He can send forward an amendment to his motion.

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

The PRESIDING OFFICER. All time has expired.

Mr. PERCY. I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) amends his motion by striking out all the language after the words "Committee on Government Operations" and inserting "for a period of not to exceed one week, *Provided, however,* that the oversight exercised by the Government Operations Committee be limited to the organizational provisions of the National Energy Research and Development Policy Act."

Mr. PERCY's motion, as sought to be amended, is as follows:

Mr. PERCY. Mr. President, I move that S. 1283, the National Energy Research and Development Policy Act of 1973, be referred to the Committee on Government Operations for a period not to exceed one week. *Provided, however,* that the oversight exercised by the Government Operations Committee be limited to the organizational provisions of the National Energy Research and Development Policy Act.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER. The motion is not debatable.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is this not a motion to perfect the original amendment? It is merely a perfecting of it, and therefore is subject to the unanimous-consent requirement, the yeas and nays having been ordered. This is, in effect, the same thing that the Senator from Illinois attempted to do by unanimous consent in asking that his motion be perfected.

The PRESIDING OFFICER (Mr. HELMS). The Chair would say that he cannot modify, but he can amend. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. JACKSON. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HELMS). The question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY) to his motion. 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 Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HART), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The result was announced—yeas 29, nays 57, as follows:

[No. 557 Leg.]

YEAS—29

Aiken	Dominick	Roth
Bartlett	Griffin	Saxbe
Bellmon	Gurney	Schweiker
Bennett	Hansen	Scott, Hugh
Brock	Helms	Scott, William L.
Buckley	Hruska	Stafford
Chiles	Javits	Taft
Cook	Mathias	Thurmond
Cotton	McClure	Tower
Dole	Percy	

NAYS—57

Abourezk	Fannin	Mondale
Allen	Fong	Montoya
Bayh	Gravel	Moss
Beall	Hartke	Muskie
Bentsen	Haskell	Nelson
Bible	Hatfield	Nunn
Biden	Hathaway	Pastore
Brooke	Hollings	Pearson
Burdick	Huddleston	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Jackson	Ribicoff
Case	Johnston	Sparkman
Church	Kennedy	Stennis
Clark	Long	Stevens
Cranston	Magnuson	Stevenson
Domenici	Mansfield	Tunney
Eagleton	McClellan	Weicker
Eastland	McGovern	Williams
Ervin	Metcalf	Young

NOT VOTING—14

Baker	Goldwater	McIntyre
Byrd, Harry F., Jr.	Hart	Packwood
Curtis	Hughes	Pell
Fulbright	Inouye	Symington
	McGee	Talmadge

So the amendment to the motion was rejected.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Illinois.

Mr. PERCY. Mr. President, I ask unanimous consent to withdraw the pending motion.

The PRESIDING OFFICER. Is there objection?

Mr. DOMINICK. I object.

The PRESIDING OFFICER. Objection is heard.

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

Mr. DOMINICK. I will withhold it temporarily, at the request of the Senator from Montana.

Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

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 Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Hawaii (Mr. INOUYE), the Senator from Wyoming (Mr. MCGEE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PELL) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The Senator from Arizona (Mr. GOLDWATER) is absent by leave of the Senate on official business.

The Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate.

The Senator from Oregon (Mr. PACKWOOD) is absent on official business.

The result was announced—yeas 6, nays 81, as follows:

[No. 558 Leg.]

YEAS—6

Bennett	Griffin	Scott, William L.
Brock	Percy	
Cook		

NAYS—81

Abourezk	Church	Haskell
Aiken	Clark	Hatfield
Allen	Cotton	Hathaway
Bartlett	Cranston	Helms
Bayh	Dole	Hollings
Beall	Domenici	Hruska
Bellmon	Dominick	Huddleston
Bentsen	Eagleton	Humphrey
Bible	Eastland	Jackson
Biden	Ervin	Javits
Brooke	Fannin	Johnston
Buckley	Fong	Kennedy
Burdick	Gravel	Long
Byrd, Robert C.	Gurney	Magnuson
Cannon	Hansen	Mansfield
Case	Hart	Mathias
Chiles	Hartke	McClellan

McClure	Pearson	Stennis
McGovern	Proxmire	Stevens
Metcalf	Randolph	Stevenson
Mondale	Ribicoff	Taft
Montoya	Roth	Thurmond
Moss	Saxbe	Tower
Muskie	Schweiker	Tunney
Nelson	Scott, Hugh	Weicker
Nunn	Sparkman	Williams
Pastore	Stafford	Young

NOT VOTING—13

Baker	Goldwater	Packwood
Byrd, Harry F., Jr.	Hughes	Pell
Curtis	Inouye	Symington
Fulbright	McGee	Talmadge
	McIntyre	

So Mr. PERCY's motion to refer S. 1283 was rejected.

Mr. PERCY. Mr. President, I should like to express appreciation to the majority leader and the floor manager of the bill for not objecting to the unanimous-consent request to withdraw the motion. It was perfectly obvious that, in the interest of expediting the work of the Senate, we should move ahead and that the Senate had expressed its opinion in defeating the amendment. The Senator from Illinois would have voted against his own motion, having heard the argument and recognizing that the Government Operations Committee, and Senators would expedite matters so that it could be cleared up in a week. I was sure, after having heard that, that 60 days was too long a period of time, and would have voted against my own motion except that other Senators had voted for it and I was unable to advise them that I would have voted against it. I think their judgment would have been the same.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had agreed 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. 8877) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1974, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate numbered 18, 48, 68, 75, and 81 to the bill and concurred therein; and that the House had receded from its disagreement to the amendments of the Senate numbered 1, 11, 16, 32, 51, 57, 62, and 79 and concurred therein severally with an amendment in which it requests the concurrence of the Senate.

CAMPAIGN SPENDING REFORM MUST MOVE FORWARD SWIFTLY

Mr. MATHIAS. Mr. President, I wish to call attention to an editorial which appeared in the Philadelphia Inquirer today, entitled "Campaign Spending Reform Must Move Forward Swiftly."

The editorial gives great credit to the distinguished Republican leader of the Senate, Mr. HUGH SCOTT of Pennsylvania, for his sensitive awareness of what needs to be done to bring about reform of campaign spending practices and for his efforts to achieve a legislative solution to their national problem.

It seems to me that the editors of the Inquirer are correct when they say that campaign spending reform must move forward swiftly. What further evidence do we need to get affirmative action? We have former cabinet officers under indictment. We have high government officials pleading guilty to criminal charges. And the root cause of all this trouble is the inadequacy of the existing system of financing campaigns.

While none of the alternatives to the present system have gained overwhelming approval, I think we have to move now to a new and a different system that removes the influence of "big money" in the political life of our country.

What Senator HUGH SCOTT of Pennsylvania advocated and what was strongly supported by the distinguished majority leader (Mr. MANSFIELD) and what I have urged was a proposal which, while new in practice, was not a new or unconsidered solution. It was a proposal that had been advocated by Presidents of the United States since Theodore Roosevelt first pressed for it in 1907. It was later urged by the distinguished Republican leader, Henry Cabot Lodge.

I believe the editorial correctly describes the firms positions taken by Senators HUGH SCOTT and MANSFIELD, and the leadership they exercised. I hope their efforts will be brought to a successful vote by the end of January.

I ask unanimous consent to include the editorial in the RECORD.

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

[From the Philadelphia Inquirer, Dec. 5, 1973]

CAMPAIGN SPENDING REFORM MUST MOVE FORWARD SWIFTLY

The attempt to make Presidential campaign financing a public matter was defeated Monday in the Senate. That defeat should surprise no one inured to the natural conservatism of elected officials concerning their own access to power.

Revolution is not to be undertaken casually. It cannot be disputed that the proposal to finance Presidential campaigning virtually entirely from tax funds is just that: a radical change in one of the most fundamental mechanisms of American politics.

But we believe it is a revolution long overdue. And we believe that the wisdom and necessity of the revolution is the most obvious and redundant lesson of the scandals that have been tearing at this nation's political heart for a year and more.

It was the need for money, in huge quantity, that corrupted the 1972 electoral process beyond the grimmest, most cynical limits of previous imagination.

Certainly, that dollar-lust derived from the appetite for power that motivates all political hopefuls, for better or worse. But it was the process of raising 60 million dollars for the re-election of Mr. Nixon that accounted for the most despicable crimes, and created the mood that led to other violations of both law and common decency that have driven the Nixon Administration to its present sad and battered state.

Money flowed in to the Committee to Re-Elect the President from thousands of sources, much of it shoddily, much of it in outright defiance of the law. Many of the contributors, practical men in a tough world, rightly or not could not distinguish between contribution and bribe. As George Spater, board chairman of American Airlines explained his own firm's illegal contributions, they were made "in fear of what could happen if (they) were not given."

Altogether, an estimated $500 million went into political campaigns in 1972. Raising and spending, and accounting for the contributions of, money in those proportions produces pressures on public servants that can only worsen unless the public-funding revolution is brought to pass.

In failing to cut off the filibuster Monday, the Congressional supporters of the first vital step in that revolution were thwarted, even though the practical possibility they were pressing for would have affected only Presidential campaigns, with Congressional campaign financing still to be dealt with.

There is considerable wisdom in exposing the Congressional campaign funding question to further examination—not because the principle is not sound, but because there are dangers of very substantial and unfair imbalances in any transitional approach. High among these is the enormous campaign-funding power of labor unions—which unlike corporations are now allowed to support candidates with little limitation.

That labor money is far too potent a force to be left unregulated and unlimited. The reform principle could greatly add to the power it represents, and thus to the influence of a small group of labor leaders with very specific political interests.

But that disbalance can be overcome, we are confident, with reasonable accommodation within the House and Senate.

Senate Minority Leader Hugh Scott deserves great credit in pressing for the unsuccessful reform despite heavy White House pressure. Working with Majority Leader Mike Mansfield he gained promise that a full campaign-spending reform bill will be reported out by the Rules Committee within 30 days of Congress's reconvening in January. That promise must be kept, and no time should be lost in fashioning it into law.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

The Senate continued with the consideration of the bill (S. 1283) to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. JACKSON. Mr. President, the Senate will begin consideration of S. 1283, a bill to provide for a National Energy Research and Development Program.

The comprehensive National Fuels and Energy Policy Study, which the Senate Interior Committee has had under way for a year and a half, has shown that the causes of our present energy crisis are varied and complex. Perhaps the most disheartening aspect of the problem, however, is that the necessary research and development efforts which could have provided us with the tech-

nological options and capabilities we now need so desperately were not undertaken in the past. Fragmented management, overall inadequate funding, and uncoordinated distribution of the meager funds which have been available have all helped to limit our energy alternatives today.

In the United States we now have for the first time very serious absolute shortages of natural gas and petroleum. In the months ahead, many regions of the Nation will face critical shortages of heating fuel, gasoline, and other petroleum products.

These shortages are the direct result of the Nation's failure to anticipate energy problems and to develop policies to deal with them.

Until recently, neither industry nor Government has fully appreciated the magnitude of the emerging energy crisis. This is especially true in the area of energy research and development. Even now that the crisis has been recognized, there continues to be a reluctance to undertake the aggressive research effort which is needed. We have failed to move from the realm of theory into the time of commercial demonstration.

Today in the United States there are adequate domestic supplies of energy to meet all of our requirements for the foreseeable future. We have huge coal reserves in Appalachia and in the West. The oil shale deposits in the western United States are an untapped energy resource of great potential. Geothermal power—the heat contained in the earth—could be a major source of energy. The basic scientific theory and laboratory experimentation exist to convert the domestic fuels we have in abundance to usable forms of energy. Using only existing technologies, we could construct capacity by 1985 to produce gas and oil from domestic coal and oil shale sufficient to reduce our projected dependence upon Mid-East petroleum by 20 percent. But the advanced technologies which would make these domestic energy sources commercially attractive within acceptable environmental and economic limits have not been developed.

At present no centralized program exists within the Federal Government to coordinate the research efforts of the various agencies. There is no research strategy nor plan for directing R. & D. efforts over the next few decades, and very little impetus to translate research to commercial application through development projects. In addition, funding levels, particularly for nonnuclear research, have historically been extremely low relative to need, reflecting in part a lack of both focus and urgency in energy research.

For example, the total budget for fiscal year 1970 was set at a $385 million level; of this amount, $283 million was spent on nuclear fission programs and $38 million on nuclear fusion programs. The remaining $64 million was spread among all other energy forms. By fiscal year 1973, the total energy R. & D. budget had increased to $633 million. However, the nuclear fission programs had grown to $412 million, and the nuclear fusion programs to $66 million. This left the remaining total R. & D. commitment at $155 million, of which $38 million was devoted to stationary source pollution control technologies.

The measure which we are considering today would initiate a program for energy R. & D. which will establish the dedication of purpose which has characterized successful national research efforts in the past. The urgency of the Nation's critical energy problems will require a commitment similar to those undertaken in the Manhattan and Apollo projects; it will require that the Nation undertake, at a minimum, a 10-year $20 billion research, development, and demonstration program.

S. 1283 provides guidelines for a comprehensive energy R. & D. strategy and greatly increases the level of funding of nonnuclear research and development. It provides the means for developing the option of choosing energy self-sufficiency within 10 years.

The bill establishes a Federal Energy Research Management Project which is authorized and directed to conduct research and development in several energy fields.

Specifically, the bill initiates action on a comprehensive Federal energy research and development strategy and provides for individual major demonstration proposals to be submitted to the Congress for separate authorization and implementation.

The bill further provides for immediate Federal research activities on the development of the following energy technologies: production of low sulfur boiler fuel; production of synthetic gas, as from coal gasification; production of syncrude and coal liquefaction; demonstration of advanced power cycles; demonstration of geothermal technologies; oil shale development; improved methods for extraction of petroleum and coal resources; demonstrations of solar energy for residential and commercial applications; improvements of environmental control systems; and demonstration of energy conservation technologies.

Mid-term research provided for in S. 1283 includes a continuation of these short term undertakings, plus improved transportation and storage by electricity; demonstration of the viability of hydrogen as a primary energy supply; demonstration of power generation from fuel cells; and development of synthetic energy supplies from agricultural products and wastes.

Additional long term research required by the bill includes demonstration of fusion power and commercial application of previously demonstrated technologies. Such a timely, well-funded and coordinated program is essential to achieving a goal of energy self-sufficiency.

This program would be conducted under an interim organizational arrangement which would not disrupt the ongoing research programs of existing agencies and which would not preempt the orderly permanent reorganization of Federal energy agencies.

There are currently several bills pending in the Senate which address the question of Federal energy organization and energy R. & D. Some of these involve major reorganizational changes within the Federal bureaucracy and must be given detailed study. However, we cannot afford to defer any longer the undertaking of a massive energy R. & D. effort. For this reason, S. 1283 establishes a management project to begin direction of a long range R. & D. effort, with provisions for merging that management group and its endeavors with whatever permanent agency is ultimately established to administer national energy policy.

Mr. President, S. 1283 as ordered reported by the committee provides for the kind of far-reaching and coordinated energy R. & D. strategy so urgently needed. I cannot overstate the urgency of this legislation and the need for a speedy enactment of a coordinated national energy R. & D. program. I would hope that the Senate will provide a strong impetus for an aggressive R. & D. effort aimed at energy self-sufficiency, and I urge the speedy adoption of S. 1283.

Mr. President, I ask unanimous consent that a summary of the bill and explanatory notes be placed in the RECORD at this time.

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

[FACT SHEET ON S. 1283]

ENERGY RESEARCH AND DEVELOPMENT POLICY ACT

The Senate is now considering S. 1283, a bill to provide a massive energy R&D effort, funded at $2 billion a year for at least 10 years. This legislation represents a first important measure for assuring that the U.S. will achieve a capability for energy self-sufficiency.

The bill establishes a federal Energy Research Management Project headed by an independent chairman appointed by the President and assisted by representatives from various federal agencies now involved in energy research: Interior, AEC, Federal Power Commission, National Science Foundation, EPA, NASA, and National Bureau of Standards.

The chairman of the Management Project is directed to formulate a comprehensive R&D strategy including:

Improving the efficiency, conservation and environmental effects of energy production, conversion, transportation, and use disposal, and

Research and development and demonstration of the following technologies: solar energy, geothermal energy, magnetohydrodynamics, fuel cells, low-head hydroelectric power, use of agricultural products and waste as energy sources, tidal power, ocean current and thermal gradient power, wind power, automated mining methods, in situ conversion of energy resources, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, direct conversion methods, utilization of hydrogen for fuel.

Accelerated demonstration and commercial application of developed energy technologies.

In addition, the bill requires particular emphasis be given to the development of specific priority energy needs. The priority research areas established in the bill are:

Production of low-sulfur boiler fuel;

Coal gasification;

Production of cyncrude and coal liquefaction;

Advanced power cycles;

Geothermal energy;

Shale oil production;
Secondary and tertiary recovery of crude oil;
Improved methods of coal extraction;
Solar energy;
Improved environmental control systems;
Improved energy conservation;
Improved transportation and storage of electric power;
Use of hydrogen as a primary fuel; and
Use of fuel cells for central generating stations.

The bill divides these priority research needs into different time frames according to the period in which the results of the research would be forthcoming. They are classified as near term (through 1980), middle term (1980–2000), and long term (beyond 2000). A timetable for the evolution of these technologies is provided in the bill.

S. 1283 also requires the chairman to recommend to the Congress specific proposals for federal assistance for the timely demonstration of new energy technologies. The chairman is authorized to select an appropriate mechanism for federal assistance, including:

Contractual arrangements with non-federal entities;
Construction of federally owned facilities;
Federal purchases or guaranteed prices of demonstration products;
Federal loans; and
Loan guarantees.

The total expenditures which will be necessary for the implementation of this research strategy amount to $20 billion over ten years. Specific authorization of funds is included in S. 1283 for the next three fiscal years is as follows:

$22 million for administration for the Management Project;

More than $1.6 billion for non-geothermal research, of which one percent is allocated for environmental monitoring of the research program;

$50 million for a loan guarantee fund for geothermal research; and

$135 million for geothermal R&D.

PROVISIONS OF S. 1283 REGARDING THE NON-NUCLEAR RESEARCH BUDGET

Title I of S. 1283 specifically authorizes a budget of $800 million annually for the general non-nuclear research which will be supported by the chairman of the Energy Research Management Project established by the Act.

It is anticipated that the existing research programs of other Federal agencies will continue to be funded directly, but that increases in the levels of those programs in future years will be provided for out of the $800 million. The $800 million will, of course, also be used to initiate new research which will be done by Federal agencies, industry, universities, and other entities.

In addition to the general research budget, the measure requires proposals to be submitted to the Congress recommending cooperative ventures with industry for major demonstrations of new technologies (those which would involve Federal costs of more than $50 million each). The costs and timing of these demonstrations cannot be determined exactly, but the Congressional findings of the bill state that the total commitment should be expected to be at least $20 billion for the first ten years.

Attached to this statement is a tabulation which sets forth an approximate schedule for the ten-year expenditure program.

PROPOSED FEDERAL SUPPORT FOR NON-NUCLEAR ENERGY R. & D.

[In millions of dollars]

Fiscal year	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983
Existing programs	385	695	700	700	700	700	700	700	700	700
S. 1283 general research	800	800	800	800	800	800	800	800	800	800
Major demonstrations:										
Near term (coal technologies, oil shale, advanced power cycle, etc.)		342	507	507	507	507	507	265		
Longer range (geothermal, solar, etc.)					100	100	100	200	400	500
Total non-nuclear	1,185	1,837	2,007	2,007	2,107	2,107	2,107	1,965	1,900	2,000
Nuclear programs (not included in S. 1283)	(616)	(877)	(1,080)	(1,090)	(1,220)	(1,274)	(1,300)	(1,300	(1,300)	(1,300)

COMPARISON OF S. 1283 ENERGY R. & D. PROGRAM WITH CHAIRMAN OF AEC'S DECEMBER 1 REPORT TO THE PRESIDENT

On December 1, Chairman Ray of the AEC released a report to the President setting forth a five-year, $10 billion energy R&D program. The report also includes estimates for the subsequent 5 years resulting in an overall ten-year budget of $20 billion.

Although this latter amount is the same as that associated with S. 1283, it does not reflect identical programs. The AEC report includes a large increment of funding for future nuclear research and development; the amounts associated with S. 1283 are for non-nuclear research only and therefore reflect greater Federal expenditures for non-nuclear programs.

The programs set forth in the AEC report for general research in fossil fuels, geothermal energy, and solar energy are reasonably consistent with the strategy guidelines of S. 2183. The additional expenditures contemplated under the provisions of S. 1283 would be associated with the following programs.

Provisions of S. 1283 would lead to sizeable Federal expenditures to assist in financing the construction of commercial-size demonstrations of new energy technologies (coal gasification, oil shale, etc.). Authority does not presently exist to carry out such ventures, and the AEC report assumes they will be entirely funded by industry.

S. 1283 contemplates substantial support for research into the environmental aspects of energy technologies. The AEC report appears to assume most of this work will be done under other "support" programs.

The strategy in S. 1283 assigns greater urgency to programs aimed at longer term payoffs than does the AEC strategy.

S. 1283 assigns greater importance to exploring unconventional energy sources. It includes the broadest range of such technologies while the AEC report stresses only solar and geothermal research.

S. 1283 is not an itemized program document. It is a grant of authority and a framework of objectives, policy, and strategy guidelines which are intended to insure that a sound R&D program will be prepared. It is not possible, therefore, to compare it with the detailed AEC budget on an item-by-item basis.

RELATIONSHIP OF S. 1283 TO THE PROPOSED FEDERAL ENERGY ADMINISTRATION AND ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

S. 1283

The measure would create a small but authoritative coordinating group (the Energy Research Management Project) to initiate a massive non-nuclear energy R & D effort. The roles of existing agencies, their ongoing energy research, and their contracts with non-Federal researchers would be preserved. The Management Project is intended to be an interim arrangement and its functions could easily be reassigned to whatever permanent energy research organization is ultimately established.

FEDERAL ENERGY ADMINISTRATION (FEA)

The FEA, which has been proposed by the President, is being partially established by Executive Order, and will require legislation to be fully realized. The Senate Committee on Government Operations will be considering such legislation.

FEA will be chiefly responsible for the Federal programs involved in management of the existing energy systems, particularly for the emergency programs such as fuels allocations. It will have only minimal involvement with energy R & D programs.

Like S. 1283, the legislation to establish FEA immediately would provide only interim authority. A more deliberate and comprehensive reorganization proposal would be considered later.

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION (ERDA)

The legislation pending before the Government Operations Committee to establish ERDA contemplates a permanent reorganization. It would also establish a new Nuclear Energy Commission to carry out licensing and regulation in the nuclear field. The pending Administration proposal also involved creation of a Department of Natural Resources.

The permanent establishment of ERDA involves the statutory transfer of agencies and programs from the:

Atomic Energy Commission;
Department of the Interior;
National Science Foundation; and
Environmental Protection Agency.

It also involves policy decisions regarding nuclear regulation and the ultimate coordination of energy R & D with the administration of other aspects of national energy policy.

PRESIDENTIAL REVIEW

SEC. 113. (a) The President shall—

(1) in connection with any reorganization plan which he has proposed or may propose which has significant impacts upon the agencies represented on the Management Project, or

(2) immediately upon the authorizaiton by the Congress of any reorganization which has significant impact upon the agencies represented upon the Management Project, make his recommendations to the Congress concerning the appropriate agency and organizational arrangements to perform the functions authorized by this title.

(b) Not later than two years from the date of this Act, unless a permanent reorganization of the energy research and development functions of the Federal Government has been accomplished in the interim, the President shall report to the Congress on his evaluation of the progress of fuels

and energy research and development and his recommendation for further management of the Federal research and development programs, including but not limited to—

(1) the necessity for continuing the Management Project,

(2) the appropriate membership of the Management Project if it is continued, and

(3) the appropriate agency to receive the duties, funding, and staff of the Management Project if it is to be terminated.

Mr. MAGNUSON. Mr. President, I am pleased that the Senate is moving rapidly to establish a comprehensive energy research and development program. There appears to be universal agreement on the need for a greatly expanded research and development program. Various industry witnesses, consumers, environmentalists, and others have long sought increases in the research and development commitment of the Federal Government. More than 2 years ago, for example, the Consumer Federation of America adopted a resolution calling on the Federal Government to launch immediately a major research and development program comparable in magnitude to the effort which sent man to the Moon. We have long been calling for substantial efforts to clean up existing techniques and develop advanced technologies to increase economic and environmental efficiencies.

I have long had an interest in these matters and, on August 3, 1971, I first introduced the Federal Power Research and Development Act. This bill would have established a comprehensive research and development program to increase efficiencies of energy production and utilization, reduce environmental impacts, and develop new sources of clean energy. The Commerce Committee held lengthy hearings on this proposal in March 1972, and these efforts were largely responsible for the creation of the Electric Power Research Institute, a utility research program designed to greatly increase research and development efforts in that industry.

On January 12 of this year, I introduced an improved Federal Power Research and Development Act (S. 357). I am pleased to report that, since that time, the staffs of the Senate Commerce Committee and the Committee on Interior and Insular Affairs have been working closely together to develop a joint research program. The bill before the Senate today, S. 1283, is the product of many months of intensive efforts by both the Commerce and Interior Committees, as well as Public Works and the Joint Committee on Atomic Energy. Many suggestions from members of the Commerce Committee regarding the structure of the research program and the establishment of a competitive system of price supports were incorporated in S. 1283, as reported by the Interior Committee. The spirit of cooperation which prevailed in formulating this legislation is a model which I hope can be duplicated in the future in many legislative areas of interest to several committees.

Mr. President, I ask unanimous consent to insert in the RECORD my original introductory remarks on the Federal Power Research and Development Act which I introduced on August 3, 1971.

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

FEDERAL POWER RESEARCH AND DEVELOPMENT ACT

Mr. MAGNUSON. Mr. President, the Nation's appetite for electric power has been doubling every 10 years—five times the rate of population growth—and current projections are that it will continue to grow at nearly this rate. Electricity is the cleanest form of energy at the point of consumption, but its generation and transmission already raise serious environmental and resource problems. These problems will get worse as electric consumption grows unless new technologies and new sources of energy are used.

Coal, our most abundant fossil fuel, is currently used to generate about half of our electric energy and even with the growth of nuclear power, coal will continue to be a major source of power. Unfortunately, its production and use raise serious problems. Coal production scars the landscape through heedless strip mining and subjects thousands of miners to both sudden and cumulative disaster through tragic accidents and the long-term ravages of black lung. Its use in generating electric power produces vast quantities of debilitating air pollutants—sulfur oxides, nitrogen oxides, particulates, and other pollutants such as traces of mercury—as well as mountains of solid waste—ash.

Oil used to generate electric power also generates air pollutants, although in lesser quantities. A key problem is that natural gas, our cleanest energy source, is in short supply. In some areas its use for electric power generation is being curtailed to conserve it for other uses.

As we learn more about the effects of various products of combustion new pollutants will undoubtedly be added to the list. Currently there is a debate among scientists as to whether the combustion of fossil fuels will heat up the earth due to increased carbon dioxide or cool it due to fine particulates.

Nuclear power, the result of large R. & D. expenditures by the Federal Government over the past 25 years, eliminates most of these air pollution problems, but it raises serious problems of its own. There is always a risk, however small, that a serious accident will result in the release of significant amounts of radioactivity to a large segment of the public. In addition, the day-to-day releases of radioactive wastes as well as the transportation and storage of high level radioactive wastes will pose increasing problems as more reactors are built and operated.

Waste heat is another unhappy byproduct of both fossil fuel and nuclear generating processes using the steam cycle. To protect our lakes, rivers, and estuaries many new powerplants will have to use alternate means of cooling ponds and towers. These consume more water and cause environmental problems of their own.

In short, unless we develop new technology for electric power generation we are faced with a variety of environmental problems no matter whether we use nuclear power or fossil fuels.

And yet the blueprint for survival is not obscure. A number of new technologies now in the laboratories and in the field offer the promise of controlling harmful pollutants, increasing the efficiency of generation and transmitting electric power and tapping new clean sources of energy. Among them:

First, Fusion machines, using various processes, theoretically could supply an abundant supply of clean energy for hundreds of thousands of years. There are researchers who feel we are very close today to the demonstration of feasibility.

Second. Solar energy, which is the only real "income" energy available on spaceship earth, could fuel many important energy processes indefinitely into the future. This process appears especially attractive since it consumes no natural resources and produces no pollution.

Third. Magneto hydrodynamics, or MHD as it is known, could be used as a "topping cycle" for present-day technologies and increase thermal efficiencies as much as 50 percent.

Fourth, Extra-high-voltage transmission lines, high voltage direct current transmission lines, underground transmission and cryogenic transmission systems all need serious effort to help reduce the present 10 to 15 percent loss of energy to the transmission process.

Fifth. Fuel cells which could cleanly burn gas and/or hydrogen to produce electricity, have the particular advantage of efficiency in small units. This process could facilitate the decentralization of American society and at the same time eliminate high environmental and economic transmission costs.

Sixth. Geothermal energy, which is being used economically in many places of the world today requires more R. & D. to facilitate better energy extraction techniques from thermal sources in our planet.

Seventh. There exist still other untapped potential sources of energy to meet at least part of our energy requirements, among them: tidal, wind, ocean current and ocean thermal gradients. Each could be a potential source of a small but significant portion of a clean energy supply.

Yet these opportunities remain largely unexplored. The record of electric utility investment in research and development is hardly impressive—at present levels no more than one quarter of 1 percent of utility gross revenues. Moreover, since 1945, 87 percent of our national investment in energy R. & D.—both Government and private—has been narrowly focused on the development of nuclear fission processes.

To their credit, both public and private utility organizations are now seeking joint efforts in R. & D. But purely voluntary efforts are doomed to frustration.

As the chairman of the Edison Electric Institute observed in a recent speech:

"In our enterprise system, the profit motive normally stimulates investment in research and development. In the case of regulated utilities, which must pass along to the customer such benefits in the form of reduced rates, not only does the incentive not exist but the system actually works in a counterproductive fashion."

Ironically, the most adventurous and farsighted utility engaging in a vigorous R. & D. program runs the risk that an unsympathetic utility commission will refuse to include such expenditures in the rate base. Moreover, it would be inequitable to force the consumers of a few utilities to pay the lion's share of R. & D. which will benefit all sharing can only be achieved by a uniform, mandatory system of pooled research and development funding.

The energy R. & D. fund which I propose today will accomplish this objective. It will also place the full costs of electric energy production squarely where they belong: on those who benefit most from the production of electric energy—especially the massive industrial users.

U.S. industry spends an average of 3 percent of its gross revenues on R. & D. This bill will raise the utility industries R. & D. investment to only about 1 percent of its gross revenues, a modest enough surcharge.

In May 1970 the American Public Power Association, which is comprised of publicly owned electric utilities, adopted a policy statement recommending the establishment of a Federal research program with assess-

ments to be made "on a kilowatt hour sales basis with the resultant funds to be expended on projects selected by a cooperative government-industry management group."

The chairman of the New York State Public Service Commission, Mr. Joseph C. Swidler, former chairman of the Federal Power Commission, in a speech delivered during February of this year, expressed his support for a "Federal tax on energy use," and urged that the funds from such a tax "be earmarked for research and . . . be administered by a joint Federal-industry council. Mr. Swidler also described the neglectful attitude taken thus far by the Federal Government in pursuing energy research when he stated:

"The government agencies in Washington deliver severe lectures on the need for improved technology for reliability and environmental protection, but the research budget in the energy area, except for nuclear systems, is minuscule in relation to the importance of the problems. There is no reason why research in the energy area should need to compete in the budget with welfare, national defense, education, the Mexican Boundary Commission and other expenditures in non-commercial areas. It would be easy for the Congress to earmark a special source of revenue to support a program of research which bore a realistic relationship to the urgency and importance of the reliability and environmental problems presented by the electric power industry."

As Charles Luce, chairman of the board of New York's Consolidated Edison has said:

"[I]f we are serious when we say that *all* costs of producing energy, including environmental costs, must be included in the price of the energy, this sort of tax makes a great deal of sense."

SECTION-BY-SECTION SUMMARY

Section 401 creates the Federal Power Research and Development Board, consisting of five members drawn from among those with experience in environmental protection, electric power production and distribution, and technological research and development. The members are to be appointed by the President for 5 years in staggered terms with the advice and consent of the Senate. After 10 years, the Board will cease to exist, unless, of course, Congress renews its mandate.

Section 402 directs the Federal Power Commission to assess a fee of .15 mills per kilowatt hour consumed. The consumers of electric entities, including Federal, State and municipal cooperatives, are subject to the fee, as are those who generate more than 1 million kilowatt hours per year.

Section 403 establishes the Federal power research and development trust fund. It is anticipated that the charges levied by this act will generate a fund of approximately $300 million during its first years of operation. The funds collected while limited to use by the Board will be subject to the appropriation process so that Congress will be able to assure that funds allocated to the Board serve the objectives of the act.

Section 404 sets out the authority and the priorities of funding for the Board and requires that the Board develop an overall annual program for its research and development activities. It makes clear that funds allocated by the Board are to be utilized to augment—not to replace—existing research and development efforts, both public and private. The Board is directed specifically to seek means to first, increase the efficiencies of electricity generation, transmission, distribution, and consumption processes; second, decrease the adverse environmental impact of electricity generation and transmission processes; third, encourage and stimulate basic innovations in the production of environmentally compatible electricity generation; fourth, make increased efficiencies and improved technology directly available to all electric utilities, regardless of size or nature of ownership.

Section 404 contains a provision requiring that at least 5 percent of the funds spent shall be allocated to research into the adverse social, environmental, or economic effects of proposed or present energy-related technology and that the results of such research shall be compiled and published yearly. This provision is designed to assure that Congress and the public will have the necessary information to balance both the benefits and the risks of new technologies as they are developed.

Section 405 grants the Board standard operating powers to hire employees, utilize consultants, to prescribe regulations, rent office space, et cetera.

Section 406 provides for a detailed annual report which is to include a thorough description and appraisal of research and development activities funded during the preceding year, an evaluation of future funding needs, and an assessment of the impact of emerging technologies on the supply and demand of electricity, the economy and the environment.

Section 407 provides for the publication of a newsletter at least twice a month to provide basic and continuing information on the Board's activities to the scientific community, Congress, industry and to the general public. The newsletter will include abstracts of all approved projects comprehensible to informed laymen, the announcement of hearings and summaries of proposed developments, and other information required under the act.

Section 408 provides that at least 60 days before approval of any projects for more than $5 million, an abstract of the proposed grant be published in the Federal Register and the newsletter, to permit comment by interested parties. This section also provides for an annual public hearing on the Board's proposed appropriations request for the following year to be held at least 45 days after publication in the newsletter and 60 days after notification: The Board is to receive testimony from any interested party denying a request to testify only for good cause publishing its reasons for the denial. The Board's principal investigators shall be present to help resolve reasonable and germane questions raised by any party, which must be responded to on the record.

It is anticipated that the annual hearing process will enable the Board to benefit from the counsel and advice of environmentalists, consumers, public interest advocates, members of the scientific and technical community, and the affected industries.

Section 409 provides that patents developed all or in part with funds allocated by the Board shall remain in the public domain.

Section 410 provides for civil penalties of up to $10,000 for each violation of regulations promulgated under the authority of the act.

AMENDMENT No. 364

At the end of the bill, add the following new section:

SEC. 18. The Federal Power Act is amended by adding at the end thereof the following new title:

"TITLE IV—FEDERAL POWER RESEARCH AND DEVELOPMENT BOARD ESTABLISHED

"SEC. 401. (a) there is hereby established the Federal Power Research and Development Board, (hereinafter referred to as the 'Board'). The Board shall consist of five members appointed by the President, by and with the advice and consent of the Senate, one of whom shall be so appointed as Chairman of the Board. The members first appointed under this section, as amended, shall continue in office for terms of one, two, three, four, and five years, respectively, from the date this section, as amended, takes effect, the term of each to be designated by the President at the time of nomination. Their successors shall be appointed each for a term of five years from the date of the expiration of the term for which his predecessor was appointed and until his successor is appointed and has qualified, except that he shall not so continue to serve beyond the expiration of the next session of Congress subsequent to the expiration of said fixed term of office, and except that any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term. Not more than three of the members shall be appointed from the same political party. No person in the employ of or holding any official relation to any licensee or to any person, firm, association, or corporation engaged in the generation, transmission, distribution, or sale of power, or owning stock or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold the office of member. Said member shall not engage in any other business, vocation, or employment. No vacancy in the Board shall impair the right of the remaining members to exercise all the powers of the Board. Three members of the Board shall constitute a quorum for the transaction of business, and the Board shall have an official seal of which judicial notice shall be taken. The Board shall have an official seal of which judicial notice shall be taken. The Board shall annually elect a vice chairman to act in case of the absence of disability of the chairman or in case of a vacancy in the office of chairman. The members shall be appointed from among those persons with experience and competence in the following areas: the environment and its protection; electric power reliability; and scientific and technical research and development. The chairman shall be compensated at the rate provided for by level III of the Executive Salary Schedule under section 5316 of title 5, United States Code. The remaining members shall be compensated at the rate provided for G.S. 18 under section 5332 of such title.

"(b) The authority under this title shall terminate ten years from the date of enactment of this Act.

"FEE ASSESSED

"SEC. 402. Every person purchasing electric energy for consumption, and every person generating more than 1,000,000 kilowatt hours per year of electric energy for his own consumption, shall pay a fee of .15 mills per kilowatt hour for all such electric energy purchased and consumed, or generated by any person for his own consumption.

"All persons distributing electric energy affecting interstate commerce including private companies, cooperatives, and agencies of local, State and the Federal Government shall include as part of the normal bill or invoice issued to any person purchasing electric energy for consumption an amount equal to .15 mills per kilowatt for all electric energy purchased and consumed. Such persons distributing electric power affecting interstate commerce are required to collect the fee imposed by this section and to pay an amount equal to all such fees collected to the Federal Power Commission.

Any person generating more than 1,000,000 kilowatt hours per year of electric energy for his own consumption affecting interstate commerce is hereby required to pay a fee of .15 mills per kilowatt hour for all electric energy generated to the Federal Power Commission.

The fees imposed by this section shall be paid by the person purchasing and consuming electric energy.

The fees imposed by this section shall not apply to sales of electric energy for resale.

"TRUST FUND ESTABLISHED

"SEC. 403. Revenues collected by the Commission from such fees and interest on such revenues shall be deposited in a trust fund, to be known as the Federal Power Research and Development Trust Fund, (hereinafter referred to as the 'Fund') which is in the Treasury of the United States to be available through the appropriation process only to the Board for use in carrying out all the provisions including administrative expenses of section 404 and other provisions of this title. Separate appropriations requests shall be submitted by the Board to the President for transmittal to Congress.

"RESEARCH PROGRAM AUTHORIZED

"SEC. 404. (a) The Board is authorized to conduct either directly or by way of contract, grant, or other arrangement, a program of research and development for the improved means of production, transmission, distribution and consumption electric energy with minimum impact on the environment. Payments under this section shall not exceed the amount of the fees collected pursuant to this Act. Such program shall be coordinated with and shall supplement research and development programs conducted or assisted by other Federal agencies, universities, electric power companies or other companies or individuals. Funds appropriated pursuant to this Act shall be allocated on the basis of their contribution to the attainment of the following goals—

"(1) increasing the efficiencies of energy generation, transmission, distribution and consumption processes;

"(2) decreasing the adverse environmental impact of present and future energy generation, transmission, and distribution processes;

"(3) achieving basic innovations for new means of reliably generating energy while protecting the environment;

"(4) making increased efficiencies and improved technology directly available to all electric utilities, regardless of size or nature of ownership.

"(5) other areas which the Board deems to be within the broad objectives of this title; and

"(6) in allocating the sums of the Fund under this title, the Board shall reserve not less than 5 per cent of such sums for projects which make a deliberate effort to search for adverse social, environmental, or economic effects of proposed or present technologies. Reports on such projects by the principal investigators shall be compiled and furnished to the Congress and the public annually.

"ADMINISTRATIVE PROVISIONS

"SEC. 405. (a) In carrying out its functions under this title, the Board is authorized to—

"(1) prescribe such regulations as it deems necessary governing the manner in which such functions shall be carried out;

"(2) appoint such officers and employees as may be necessary, and supervise and direct their activities;

"(3) utilize from time to time, as appropriate, experts and consultants, including panels of experts, who may be employed as authorized by section 3109 of title V of the United States Code;

"(4) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by law for persons in the government service employed without compensations

"(5) rent office space; and

"(6) make other necessary expenditures.

"(b) If, in carrying out its functions under this section, the Board from time to time should require the services of personnel engaged in the generation, transmission and distribution of electric energy, it should seek such personnel from all segments of the electric power industry including investor owned, State and local public agencies, cooperatives, and Federal agencies.

"REPORT

"SEC. 406. The Board shall prepare and submit to the President for transmittal to the Congress not more than six months after the passage of this Act and on the same day annually after that, a comprehensive report on the administration of this title for the preceding calendar year. Wherever possible, judgments contained in the report shall include a clear statement of the assumptions and data used. Such report shall include—

"(1) a thorough analysis and evaluation of research and development activities funded under this title;

"(2) a comprehensive evaluation of the areas most in need of research and development funding in the future;

"(3) an analysis of the possible and probable impact of emerging technologies on the present and future aspects of the following:

"(A) both the supply of and the demand for electrical energy;

"(B) the economy and

"(C) the environment; and

"(4) the extent of cooperation with other Federal agencies and public and private institutions, indicating the difficulties and the Board's plans for improvement, including proposals for legislation if needed.

"NEWSLETTER

"SEC. 407. (a) Not less than twice each month, the Board shall publish a newsletter (hereinafter referred to as the 'Newsletter'), which shall be made available to all interested persons and include—

"(1) abstracts of all approved grants, including a statement on the general nature of the work;

"(2) announcements of hearings;

"(3) summaries of promising developments; and

"(4) the information required elsewhere in this title.

"(b) The Board shall give notice by publication in the Federal Register and in the Newsletter at least 90 days before approval of any grant of $5,000,000 or more and shall provide an opportunity for any interested party to comment on any such grant prior to approval. No grants may be approved until thirty days after completion of the time allowed for the comment of interested persons.

"PROCEDURE

"SEC. 408. At least once each year the Board shall conduct a hearing on its proposed budget for the following fiscal year. Notice shall be given by publication in the Federal Register and in the Newsletter at least 60 days prior to its occurrence, the scheduled date, time, and place of said hearing. In addition, at least 45 days before the hearing date, the Board shall publish in the Newsletter a complete statement of proposed programs in the next fiscal year. All interested parties should be granted an opportunity to testify. The Board can deny the request to testify only on the basis of good cause publishing the reasons therefor. A record shall be made of all hearings, and said record shall be available for public inspection. All reasonable and germane inquiries made at the hearing of the Board, or of the principal investigators where possible, must be fairly responded to on the record. The Board shall wait at least 30 days after the completion of the hearings to allow for the comment of interested parties before submitting its budget to the President.

"PATENTS

"SEC. 409. Each contract, grant or other arrangement for any research or development activity supported by this title shall contain provisions effective to insure that all information, uses processes, patents, and other developments resulting from that activity will be made freely and fully available to the general public. Nothing herein shall be construed to deprive the owner of any background patent of any right which he may have thereunder.

"CIVIL PENALTY

"SEC. 410. Any person who violates any regulation established pursuant to this title shall be subject to a civil penalty of not more than $10,000 for each violation or for each day of a continuing violation. The penalty shall be recoverable in a civil suit brought by the Attorney General on behalf of the United States in the United States District Court for the district in which the defendant is located or for 'The District of Columbia.'"

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. FANNIN. Mr. President, I commend the distinguished manager of the bill, the chairman of the committee, the Senator from Washington (Mr. JACKSON), for his leadership in this legislation. This has been a long, tiring endeavor to bring out a bill that would accomplish the needed results.

Mr. President, I am pleased to state that in contrast to most of the energy related legislative exercises the Interior Committee has encountered this year, this bill—S. 1283, the National Energy Research and Development Policy Act of 1973—has been handled on a truly bipartisan basis. As the chairman and distinguished floor leader stated:

> The question of achieving self-sufficiency in this country in terms of development of our indigenous energy supplies is too important an issue to be treated as a purely political matter.

Mr. JACKSON. Mr. President, if the Senator will yield, I just want to take the opportunity to thank the distinguished senior Senator from Arizona, the ranking member of the committee, for the outstanding leadership he has provided in the exhaustive legislative consideration of S. 1283.

I want to express to him and through him to all of his colleagues in the committee on his side of the aisle my deep appreciation for the way in which they have cooperated and have assisted in getting this bill out.

I am very proud of the way in which this matter has been handled. The fact that this bill is cosponsored by every member of the committee, I think, points to the kind of bipartisan or nonpartisan effort we are making to deal with what perhaps represents our best hope for solution of the energy crisis.

Mr. President, this will be the greatest research and development undertaking ever attempted by this or any other nation in peace or in war.

I am very proud of the bipartisan effort that has been made in this committee which, I think, bodes well for the other energy programs.

Mr. FANNIN. Mr. President, I certainly wish to commend the distinguished Senator from Washington (Mr. JACKSON), chairman of the committee. I very much appreciate his comments on the fact that we were able to accomplish the results we sought in the proposed legislation.

Credit is also due the staff. The chair-

man directed his energy research and development specialist, Dr. Daniel Dreyfus, to work closely, honestly, and fairly with the minority staff of the committee. We are proud of his work. We are privileged to have on loan from the staff of the chairman of the Senate Committee on Public Works, Mr. Richard Grundy, who is serving in the capacity of executive secretary of the National Fuels and Energy Study. He deserves much credit, too, for the content of S. 1283 and for his complete cooperation with the minority staff.

David Stang and Roma Skeen, of the minority staff, are to be highly commended for their untiring efforts, day and night, to complete the proposed legislation.

I am pleased to say that as a result of the high plained manner in which Dr. Dreyfus and Mr. Grundy conducted their business with the minority staff, they concluded their work on this bill with a renewed faith that the onus of moving this country back into a state of self sufficiency belongs principally with private industry. The Government can stimulate, but industry must do the job. The Government can provide incentives but the industry must do the job. The Government can select the general direction, but the industry must do the job.

This theme can be found throughout the bill and is elaborated in the report.

Section 101(b) finds that our present critical energy shortage is compounded by past and present failure to initiate an aggressive R. & D. strategy. The language further states:

This failure is partly a result of economic factors which have inhibited the timely development of new energy technologies." The report elaborates at page 32, "Such economic factors include the fact that historically low prices for conventional fuel have inhibited the development of unconventional fuels which are more expensive to produce.

In particular, the federally regulated low prices of natural gas have precluded by rendering uneconomical attempts to develop synthetic gas from oil and coal.

Indeed, a major contributor to the national energy crisis has been the dramatic shortfall of natural gas supply. Oil, largely imported oil, has been called upon to fill the gap caused by the shortage of natural gas. The Arab cut-off of oil has limited the possibility of oil continuing to fill the gas gap. The question then becomes one of finding the best means to rapidly increase the supply of natural gas so as to reduce or eliminate the present gap.

In order to find such a means one must ask, What caused the natural gas shortage? The experts—including academic economists, the Federal Power Commission, and the natural gas industry—are in near unanimous agreement that the principal cause of the gas shortage has been the wellhead price regulation of natural gas producers selling to FPC in the early 1960's pursuant to the U.S. Supreme Court decision in the Phillips case. Such regulation resulted in expanded consumer demand for "bargain rate" natural gas while dramatically dampening producers' efforts to find new gas supplies.

I am pleased that during our discussions with the distinguished chairman of the Interior Committee and the floor leader of this bill regarding the thrust of S. 1283, he recognized that the bill is designed to initiate programs to help achieve energy self-sufficiency which in all likelihood will not provide a substantial payoff in terms of new energy sources until nearly 1980. The chairman recognized, therefore, that other measures will be required to expand supplies during the shorter term. He has publicly stated that natural gas prices must rise considerably. He knows that on a heat content or Btu basis natural gas in the interstate market is still selling for one-third the price of our domestically produced oil and one-sixth of the price of recently imported oil.

Accordingly, I am hopeful that our chairman will further prove himself to be the statesman that he has already demonstrated himself to be by calling for quick Senate action to deregulate natural gas in the interstate market so that new supplies can come promptly into being. Such short-term measures the chairman must realize are absolutely essential to fill the gap between now and the time that programs called for in S. 1283 come to pass.

The programs called for in this bill are indeed to be executed on a crash basis. Some have indeed likened the new energy technology development called for in this bill to the Manhattan project and the Apollo project. There is indeed a certain amount of romance in making such an association, but—I am now reading from page 33 of the report—

Unlike the Manhattan and Apollo Projects, however, the "products" developed under a stepped-up national energy R. & D. program will be used primarily by consumers in the private sector and not exclusively by the government itself. This important difference highlights the need to develop within the private sector the continued capability of private industry to meet the total energy needs of the American public.

This theme is repeated again and again. On page 37 of the report, for example, the following comment underscores this point:

The largest burden of such research, however, must properly fall upon the private sector.

The chairman is to be commended for recognizing this important point and including it prominently in the committee report which analyzes this important bill.

Recent events have demonstrated that energy is the very lifeblood of our national economy. The Arab oil cutoff of crude and product occurred during the mark-up of this bill. At that time we had available to us a report prepared by the National Petroleum Council which states in part:

On a conservative basis, the effect of a 2-million-barrel-per-day cutoff has been estimated to cause an annual loss of 48 billion dollars to the U.S. economy as measured by the Gross National Product. This slow-down in the economy would cause unemployment to increase from the current 4.5 to 5.0 percent level to over 6 percent. The projected 3-million-barrel-per-day cutoff would have an even greater impact and could push unemployment up to the 7.5 to 8.0 percent range.

These developments provide a sound basis for the conclusions we have reached in section 102 of the bill which pertains to the overall policy of this legislation. Specifically I am referring to the fact that the bill recognizes the close interrelationship and dependence between national goals and energy policy. Again reading from the committee report at page 34:

The Committee intends that such policy insure that sufficient energy supplies are available so as not to indirectly or inadvertently constrain or jeopardize the achievement of established goals and objectives of national policy, including a viable economy with low rates of unemployment.

While it is recognized that prices of conventional fuels will be rising, new energy sources developed through programs called for in this bill will also be expensive. The object is not to raise prices for the sake of raising prices, but to allow prices to rise so as to increase competition between and among producers of alternative fuels. Reading again from the report at page 34:

The Committee believes the public interest can best be protected by insuring competition among energy sources. Thus, when alternative energy sources are developed, competition for energy markets will intensify and the consumer will be protected. The sooner such alternatives are developed, the sooner the burden of fuels allocation can be removed.

The Arab oil cutoff is one of the principal reasons why a mandatory allocation program is necessary. But, as we have stated so often, allocation programs merely spread the shortages around and mitigate damage to rather than strengthen our national economy. Quoting further from the report at page 35:

When the United States develops its own capability for self-sufficiency in fuels, vulnerability to foreign manipulation of energy supplies and prices will be reduced and the capability of exercising a truly independent foreign policy will be enhanced.

Turning now to the energy research management project called for in section 103 of the bill, I would like to stress that this arrangement was decided upon because of the twofold interest of members of the committee in providing both the least possible disruptive arrangement regarding existing organization for energy in the executive branch of the Government, and the widest possible opportunity to move forward with separate legislation related to the creation of an Energy Research and Development Administration called for by the President. I see nothing incompatible with this bill in any legislation related to the creation of ERDA. By way of comparison, this bill provides the substantive policy framework, the program content, the alternative strategies available to the administration, a timetable for action for a massive Federal R. & D. effort. The ERDA bill, on the other hand, provides for rearrangement of energy related

Federal R. & D. organization. In short, this bill deals with R. & D. policy. The ERDA bill deals with R. & D. organization.

Section 104 of the bill deals with the duties of, and alternative mechanisms for providing incentives for R. & D. programs related to energy development to be utilized by, the management project. With regard to such incentives, the report stresses that such incentive—

Are not intended to exclude by intentional omission any area of interest, but are intended to suggest the most comprehensive attention to potential research projects.

This means that by our incorporating into the bill lists of R. & D. priorities and lists of alternative mechanisms to provide incentives for their development, we are attempting to give the administration the greatest possible flexibility with regard to their implementation. Specifically, I am referring to the research priorities contained in section 106 of the bill and the forms of Federal assistance provided for in Section 107 of the bill. The intent of the committee is to let the administration decide which form or forms of assistance is most appropriate for each of the research priorities specified in section 106 of the bill.

In order to facilitate the rapid development of new federally assisted R. & D. programs, the bill specifically provides for the non-Federal share of any joint Government-industry project to be measured in terms of the value of lands or property interests, including natural resource interests, for the project, or personal property or services to be provided for the project by the industial participant.

Mr. President, these are the major points I wanted to stress with respect to title I of the bill. The section-by-section analysis can be referred to for other aspects of the bill.

Title II of the bill is the Geothermal Energy Act of 1973. This is identical to the bill I prepared and introduced with Senators BIBLE and CHURCH, and other members of the Senate Interior Committee, as S. 2465.

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

Mr. FANNIN. I am happy to yield to the Senator from Washington.

Mr. JACKSON. I want to take this opportunity to commend the Senator from Arizona for adding title II to the bill, which incorporates the previous legislation on the subject of geothermal energy. The Senator from Arizona and the Senator from Nevada (Mr. BIBLE) have long led in this particular area. Title II is a very helpful addition to the bill.

Geothermal energy was thoroughly reviewed separately, and then the decision was made to incorporate title II in the bill, and I particularly commend the Senator for that specific contribution to the legislation.

Mr. FANNIN. Mr. President, I thank the distinguished Senator from Washington, the floor manager of the bill.

I also wish to say that Dr. Dreyfus, too, in this particular instance did a very fine service in research and, of course, has a long history of activity in this field. I thank him for his participation also.

Mr. JACKSON. Will the Senator yield further?

Mr. FANNIN. Yes.

Mr. JACKSON. I neglected to say, and did not have the time earlier to say, that we are all proud of the direction of the staff effort by Dr. Dan Dreyfus, who was ably assisted by Dick Grundy from the staff of the Public Works Committee, who has been made available to the committee by the courtesy of the able chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH).

In all of this effort, they and Dave Stang have worked cooperatively together throughout the staffing of a very complicated piece of legislation. It represents the largest research and development effort ever put together in legislative form in the history of this country, and I think they all deserve great credit.

Mr. FANNIN. I concur, and I commend the Senator for his thoughtfulness in bringing to the attention of all of our Members the outstanding services that they have performed. I, too, agree that with this great effort much has been accomplished, and I feel we are now on our way to programs that are long overdue, but the committee has been working upon them, and we feel very confident that with the passage of this bill we will be in a different position than ever before.

I also want to take this opportunity to express my appreciation to the distinguished Senator from West Virginia (Mr. RANDOLPH) for his continued cooperation and attendance at the meetings and assisting in developing this legislation. He is always cooperative and helpful, as he has been in other instances. I know of his tremendous interest in the research and development program and in all the areas covered by the bill. We are grateful to him for his contribution.

Mr. President, it was on the joint motion of Senator CHURCH and myself that the Geothermal Energy Act was included as title II of S. 1283. Both Senator BIBLE and Senator CHURCH deserve great credit for their recognition of the necessity of moving forward with innovative geothermal programs. It was Senator BIBLE who authored the Geothermal Steam Act of 1970. That act provided the basis for leasing geothermal energy resources on the public lands of the United States. It is with great sadness that I am forced to point out that within the last 3 years the administration has done little to initiate such a leasing program. Members on both sides of the aisle of the Senate Interior Committee are equally disappointed with the footdragging within the Interior Department and the Office of Management and Budget in initiating the Geothermal Energy Leasing program mandated 3 years ago by the aforementioned act of Congress.

I mention this because without a leasing program, title II of S. 1283 can go nowhere. A condition prerequisite for the initiation of programs called for in title II of S. 1283 is an aggressive leasing program for geothermal energy resources on the part of the Federal Government. Without access to the resource, little can be done in the way of developing innovative technologies. Title II of S. 1283 is designed to be a catalyst for the development of innovative new technologies to utilize geothermal energy. The bill provides for a program for loan guarantees in section 202 through section 208. Sections 209 through 217 provide for an accelerated Federal program involving geothermal energy within the Federal Government, and gives specific direction to new programs to be established within the Interior Department, NASA and the Atomic Energy Commission.

It should be noted that title II of the bill provides a more detailed program for developing technologies to utilize geothermal energy than does title I for developing other new energy sources. The reason for this difference is that the committee has held extensive hearings on the subject of geothermal energy. Additionally, several members of this committee have been involved in conducting extended field investigations relative to geothermal energy technology. As I have already mentioned, the Senate Committee on Interior and Insular Affairs has been concerned with geothermal resources for many years. To repeat, under the leadership of Senator BIBLE, the committee developed legislation which culminated in the Geothermal Steam Act of 1970.

In June of 1972, as a part of the committee's study of national fuels and energy policy being conducted pursuant to Senate Resolution 45, 92d Congress, hearings were held on geothermal energy resources and research which provided an overview of the state of technology and the potential of the resource as a new energy source.

On June 13, 1973, the Subcommittee on Water and Power Resources began a detailed investigation of the potential for the production of power from geothermal resources with a hearing in Washington, D.C. At that hearing the following Federal agencies, which have programs related to geothermal energy, were requested to present testimony in response to specific questions posed by the subcommittee: First, the Department of the Interior; second, the Atomic Energy Commission; third, the National Science Foundation; fourth, the National Aeronautics and Space Administration; fifth, the Department of State.

Each agency was requested to direct its prepared testimony to the following points:

First. Evaluation of the long-range potential for the production of electric power and heat in the United States from geothermal resources, including distribution of the resource by regions, breakdown by dry and wet resource types, and evaluation of the extent and reliability of available inventories of geothermal resources.

Second. Discussion of exploration, research, and development work in geothermal resources presently underway and projected for the short term by types of resources and types of applications.

Third. Outline of the technological and environmental problems associated with large-scale development of geo-

thermal energy by types of resources and application

Fourth. Descriptions of the exploration, research, and development activities which should be undertaken in the near term—first 5 years—to achieve the optimum advancement toward large-scale development of geothermal energy by types of resource and applications, including cost estimates and objectives of each of the activities.

NASA was particularly requested to discuss space applications of geothermal exploration. The State Department outlined cooperative international programs in geothermal research.

Subsequent to that hearing, the subcommittee conducted field hearings and inspections of existing and potential geothermal developments. On August 8, the Interior Committee's minority counsel, Harrison Loesch, Dr. Dreyfus, and myself visited the Geysers geothermal power development of the Pacific Gas & Electric Co. in California, which is the only operating geothermal electric facility in the United States.

On August 10, Senators CHURCH and MCCLURE made a helicopter inspection of geothermal areas in southern Idaho, which are being considered for early development for power production. On that date, also, the subcommittee held a public hearing in Idaho Falls, Idaho, to take testimony from witnesses including public officials, authorities in geothermal energy, representatives of industrial concerns involved in energy and various citizens groups and individuals.

On August 11, Senators BIBLE and HATFIELD conducted a similar subcommittee hearing in Klamath Falls, Oreg. The hearing at Klamath Falls was conducted at the Oregon Technical Institute, in a modern academic building complex which is entirely heated from geothermal wells.

During the month of August, Mr. Stang exhaustively researched the research and development programs being conducted in France and Italy related to geothermal energy.

The results of the subcommittee's investigations were compiled in a report to the Senate which was recently publish.

For these reasons, we felt that geothermal energy should be given special and separate treatment than the programs contained in title I of the bill.

In conclusion, Mr. President, S. 1283 has been the result of careful and extensive consideration, given by members of the Senate Interior Committee on a bipartisan basis, to the subject of the creation of a national energy research and development strategy. It is designed to provide the charter for accomplishing the President's goal of attaining energy self-sufficiency by 1980.

We had several members on the minority side who were very active in the hearings as well. Senators HANSEN, MCCLURE, BUCKLEY, BARTLETT, all participated actively. Senator HATFIELD of Oregon and Senator MCCLURE of Idaho attended the committee's hearings in their respective States and brought back information that was very valuable in preparing this legislation. They have worked tirelessly toward the goal of developing a national R. & D. program for geothermal energy.

Mr. President, I pay tribute to the Senators on the minority side who were so good in attendance and who provided the quorums and who furnished the guidance in bringing this legislation to its final conclusion. As to the majority, I have already expressed my gratitude to them for the excellent way in which the bill was handled on a bipartisan basis.

Mr. President, I yield the floor.

Mr. RANDOLPH. Mr. President, at this crucial hour—and this hour will stretch into many more hours more crucial in their impact on the American people—it is generally recognized that the U.S. energy policy should be geared to enhance domestic self-sufficiency in fuels and energy.

I made this statement at the outset of my remarks: It is in this measure, S. 1283, the National Energy Research and Development Policy Act, that we will supply the thrust of what we are doing to further the cause and the ultimate fact of self-sufficiency.

What does this measure do, Mr. President? It sets forth as an overriding goal, "The development within 10 years of the options and capabilities for the United States to become energy self-sufficient through the use of domestic energy resources by environmentally acceptable means."

Mr. President, we have not scuttled environmental considerations in bringing this measure into this Chamber. I would not wish that to be done, and the Members who have worked on this legislation would not wish that to be done. The achievement of this capability, that is, the capability to achieve environmentally acceptable self-sufficiency in supplies of energy, will require the development, first of all, of a strong nuclear power industry.

This goal has been recognized as Members know, for over 10 years, and is the basis for the Atomic Energy Commission's research and development program.

But I remind Senators that the U.S. long-term energy supplies are not restricted to electric power, which represents, at most, 50 percent of our future energy consumption. Only half of this electric power, or one-quarter of our total energy consumption, can be satisfield under optimum conditions by nuclear energy. There remains, therefore, the other three-quarters of our energy needs which must be met and must be satisfied by fossil fuels and, in the long term, what we would call unconventional energy supplies. The Senator from Arizona (Mr. FANNIN), who has just spoken, has alluded to it.

The assurance that these supplies will be forthcoming in environmentally acceptable ways—and I stress this—is the objective of the measure now before the Senate. This measure recognizes that coal—spelled in capital letters, C-O-A-L—must now command a position in the U.S. energy supply system comparable to that held by nuclear power.

In the past, our national nuclear energy research and development posture has left much to be desired. There have been unacceptable delays and even failures in the development of new energy technologies. This situation must be corrected and I believe can be substantially corrected when this measure becomes law and the action programs are in being. Whatever the cause for the unacceptably slow development of new energy technologies, the fact is that we need increased and more fruitful research and development efforts across the board.

In stepping up the base and the effectiveness of research and development energy-related technologies, collective in nature, we cannot escape guilt for having failed to give full national attention over the past decade to the formulation of a national fuel and energy policy.

Mr. President, as a resource base, coal is our most abundant domestic resource. Someone might say, without thinking the matter through, that the Senator from West Virginia, now addressing this subject, comes from West Virginia, the coal State with the greatest production in the country, and of course this is true. But I speak today on a basis which is beyond that, not provincial in nature, as to the availability of coal to be produced and used under the technology we have at the present time.

Again I ask: What is our most abundant domestic resource? We can mention many others, but coal is No. 1. With present technology, there are some 150 billion tons of recoverable coal—people do not realize this to be a fact—of an estimated 3.2 trillion tons in the United States. Even—and I underscore this statement—even should maximum production be pursued for the next 15 years, less than 10 percent of our presently recoverable reserves would be consumed. I do not think the public generally realizes the validity of that statement.

Nevertheless, energy self-sufficiency will require unprecedented growth in our Nation's coal industry. This means that, at a minimum, by 1985, the United States must be capable of producing and using, in environmentally accepted ways, between 1.8 billion and 2 billion tons of coal. This compares to about 7 million tons as of today. I emphasize that this is a two and a half to three-fold increase in production in 12 years.

However, should our energy supplies—they have been mentioned—not be able to meet their projected roles, this task for coal would be even more difficult. Coal production might necessarily have to reach 2.6 billion tons. This means that by the year 2000, production might have to be as high as 4 billion tons. This will be an exceedingly difficult challenge for both government and industry. What must be recognized is that the energy demand will be there; it will increase; and, if our economy is not to be adversely affected, it must be met by some fuel.

So the issue is coal's capability for performing a greater role than previously envisioned in our energy supply system. I view coal as being on the threshold of a reformation which must carry into the

21st century. Yet, achievement of a respectable role for coal—not only respectable but also absolutely necessary—in the national energy posture will require the development of new ways of extracting and using coal. Traditional methods no longer are totally satisfactory from the standpoint of occupational health or environmental quality. In the future, coal will be viewed—I emphasize this—as a chemical substance which can serve as the feedstock for synthetic fuels of the 1990's—yes, into the next century.

However, achievement of the dual objective of secure environmentally acceptable energy supplies may be the most difficult challenge that our country will face in the years ahead. Even partial success in this effort will require an aggressive Federal posture, predicated on achievement of sound energy and reasonable environmetnal policies; for, in the final analysis, they must not be polarizations, they must not be opponents, they must not be enemies. They must stand together, inseparable, if the job is to be done.

Commenting at the June 8, 1973, hearings of the Senate's National Fuels and Energy Policy Study on S. 1283, the National Energy Research and Development Policy Act of 1973, Mr. Carl Bagge, President of the National Coal Association, made the following observation:

> Coal today is, once again, a primary fuel for the nation. Because of the current energy shortage, the erosion in our balance of payments caused by excessive oil imports, the threat to our national security inherent in growing dependence on fuel imports and, finally, the emerging national consensus to rationally develop indigenous energy resources—for all these reasons, coal once again looms large in our nation's energy future. This is not idle rhetoric from a coal trade association spokesman, but a pragmatic conclusion based upon the hard realities of the nation's existing energy dilemma.

Mr. President, this act attempts to cope with but one aspect of the energy policy.

I want to say to the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON), the creative Senator, the resourceful legislator—these are not pleasantries; they are commendations which he deserves—that I think he will agree that this bill is concerned with the commercial demonstration of new energy technologies. This measure, in effect, would provide, as has been stated, a total Federal program of $20 billion over the next 10 years.

Mr. President, I emphasize that achievement of a realistic role for coal in our national energy posture will require the development of new ways of extracting and using coal. Traditional methods no longer are totally satisfactory from the standpoint of occupational health or environmental quality.

However, as Mr. Bagge stated—

> Now coal is regaining its public visibility as a crucial source of energy, but it cannot realistically be expected to reach its full stature merely by the shrinkage of other fuels. The coal industry, which has lived too long on a subsistence level, absolutely requires national policy encouragement and help to increase its production, improve its product, and compete without extraneous handicaps in a free fuel market.

The Energy Research and Development Policy Act of 1973 (S. 1283), deals with but one aspect of energy policy. It is concerned with the commercial demonstration of new energy technologies. This bill would, in effect, provide a total Federal program of $20 billion over the next 10 years to commercially demonstrate new energy technologies such as coal gasification, coal liquefaction, shale oil, and geothermal and advanced power cycles for the generation of electricity.

Until recently the Federal research policy has emphasized the breeder reactor, a nuclear solution to the long-term electricity supply problem. In fact for 20 years or more, the Federal Government has subsidized nuclear power developed on the premise of abundant electric energy.

This same concept now must be applied generally to energy development, to environmentally acceptable domestic, not foreign, energy resources.

It is not enough to have a Federal energy research and development strategy that is geared to the commercial demonstration of new energy technologies. This strategy must also be keyed to satisfying energy deficits in environmentally acceptable ways.

The nature of our present and future energy shortages must be attributed to a failure to implement plans and a research strategy designed to fill shortfalls in energy supplies from domestic sources. The causes of this failure date back to the 1950's, but the deficits between supply and demand will be narrowed only if the United States implements an aggressive and comprehensive Federal energy research and development policy such as that contained in S. 1283.

Coal, I repeat, has been neglected in the past and must now be the cornerstone of this research effort. Several specific research priorities are set forth in S. 1283:

First, there is a need to develop new mining methods to increase coal production. A number of innovative techniques to increase productivity can and must be perfected. Coal mining must be recognized as a sophisticated technology and the role of the coal miner as a true technician and specialist also must be recognized. For this purpose, the bill requires a Federal program to demonstrate new mining technologies such as long-wall methods of mining in experimental mines to be operated under a system of Federal support. These experiments also are to be used for the purpose of training modern miners.

Second, a major crash research program is needed to develop low sulfur fuels suitable for use in the generation of electricity. An emphasis is needed on the removal of sulfur from coal prior to combustion rather than stack gas treatment. Nevertheless, an accelerated program is needed on sulfur oxide control systems which fully utilizes the expertise that has been developed by the Atomic Energy Commission.

Third, gasification processes for the conversion of coal into high, medium, and low Btu gas for industrial uses must be pursued, immediately. Many of the processes which now should be commercial are only in early stages of evolution. These processes must now be accelerated. This program also must be viewed as a pollution control effort. Only through such coal gasification technologies can many industrial users achieve timely compliance with air pollution control requirements.

Fourth, coal liquefaction is needed to convert various grades of coal to premium fuels, particularly for use in transportation.

As our energy crisis worsens, it is obvious that synthetic premium fuels such as gasoline and jet fuel, as well as heating oils, are needed. Coal can serve as a chemical feedstock for the eventual production of numerous synthetic fuels.

Many other technologies are set forth in S. 1283, and I recommend that Senators review the research priorities set forth in section 106. I ask unanimous consent that these research priorities appear in the RECORD at this point.

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

> SEC. 106. Pursuant to the authority and directions of this Act, the Chairman shall transmit to the Congress—this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to immediate and short-term (to the early 1980's) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals pursuant to sections 105 and 107 for the most effective approach, through Federal assistance—
>
> (1) to accelerate the commercial demonstration of technologies for producing a low-sulfur fuel suitable for boiler use;
>
> (2) to accelerate the commercial demonstration of technologies for producing substitutes for natural gas, including coal gasification: *Provided*, That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation in the form of a joint Federal-industry corporation, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;
>
> (3) to accelerate the commercial demonstration of technologies for producing syncrude and liquid petroleum products from coal: *Provided*, That the Chairman shall invite proposals from potential participants based upon Federal assistance and participation through guaranteed prices or purchase of the products, and recommendations pursuant to this clause shall be accompanied by a report on the viability of using this form of Federal assistance or participation;
>
> (4) to accelerate the commercial demonstration of advanced power cycles for the generation of electricity from coal, including technologies which employ the production of low British thermal unit gas from coal;
>
> (5) in accordance with the program authorized by title II of this Act, to accelerate the commercial demonstration of geothermal energy technologies;
>
> (6) (A) to accelerate the commercial demonstration of the production of syncrude from oil shale, and (B) to assist the research and development of in situ methodologies for the production of syncrude from oil shale;
>
> (7) to demonstrate new and improved methods for the extraction of petroleum resources, including secondary and tertiary recovery of crude oil;
>
> (8) to demonstrate new and improved methods for the extraction of coal resources: *Provided*, That the Chairman shall invite proposals from potential participants in

joint Government-industry operated mines for the purpose of demonstrating new and improved mining technologies and methods and of training the associated personnel;

(9) to demonstrate the economics and commercial viability of solar energy for residential and commercial energy supply applications;

(10) to accelerate the commercial demonstration of environmental control systems including particulate and sulfur oxides emission control systems, necessary for the timely implementation of air pollution standards and water pollution standards established pursuant to Federal or State law; and

(11) to demonstrate new and innovative energy conservation technologies.

(b) Within one year from the date of enactment of this Act, the Chairman's recommendations for an aggressive Federal research strategy and priorities designed to achieve solutions to middle-term (the early 1980's to 2000) energy supply system and associated environmental problems. Such recommendations shall include, but not be limited to specific anticipated actions and proposals for the most effective approach—

(1) to improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsection (a);

(2) to advance improvements in the methods and technologies for the transportation and storage of electric energy;

(3) to commercially demonstrate advanced power cycles for the generation of electricity which represent significant improvements in the efficiency of conversion of energy resources to electricity;

(4) to commercially demonstrate hot dry rock geothermal energy technologies;

(5) to commercially demonstrate advanced solar energy technologies;

(6) to determine the economics and commercial viability of the use of hydrogen as a primary energy source;

(7) to commercially demonstrate the use of fuel cells for central stations electric power generation; and

(8) to determine the economics and commercial viability for producing synthetic energy supplies from agricultural products and wastes.

(c) Within eighteen months from the date of enactment of this Act, the Chairman's recommendations for a Federal research strategy and priorities designed to achieve solutions to long-term (beyond 2000) energy supply systems and associated environmental problems. Such recommendations shall include, but not be limited to, specific anticipated actions and proposals—

(1) to further improve the economics and cost-effectiveness of the technologies set forth in the research strategy recommended pursuant to subsections (a) and (b);

(2) to commercially demonstrate nuclear fusion; and

(3) to commercially advance the use of hydrogen as a primary energy source.

Mr. RANDOLPH. Mr. President, I have always endorsed the policy that protection of public health should not be subordinated to economic feasibility. After long deliberation in 1967, and again in 1970, the Congress enacted a Federal air pollution control policy that distinguishes between concerns for public health and concerns for welfare.

For many years, I have been in the vanguard of a few Members of the Congress who have urged emphasis on the development of technologies to make the use of coal environmentally acceptable. This can be accomplished through better control of sulfur oxides and more rapid development of coal gasification and coal liquefaction and advanced power cycles for the generation of electricity.

When both the 1967 and 1970 Clean Air Act Amendments were under consideration in the Senate Public Works Committee, and in the Senate, I offered amendments to increase the Environmental Protection Agency's program authorizations and appropriations for research and development. Most of my amendments were accepted, and are now law. But the executive branch consistently has done too little toward the financing of research on energy-related environmental control technologies.

For example, the EPA's budget request for fiscal year 1974 showed an actual decrease in funds for air pollution control programs and research.

The disturbing action resulted in termination of EPA's $5 million program to develop sulfur oxide control technologies to control air pollution emissions—for example, from the combustion of high-sulfur coals. The EPA's justification was that more than $86 million had been devoted to development and demonstration of first-generation technology for reducing and controlling air emissions from stationary and mobile sources. Their plans now are to move into a second phase where the private sector is expected to further refine and improve this technology.

This position reflects a policy that the development of sulfur oxide control technology is the responsibility of the private sector, not government; yet, this position does not reflect the congressionally enunciated policy contained in the Clean Air Act (section 104).

This budget cut was even inconsistent with recent recommendations of the Interagency Sulfur Oxide Control Technology Assessment Panel (SOCTAP), which states:

In particular, Federal R. & D. efforts should be expanded to accelerate the development of improved scrubber solid waste management processes. It also is strongly recommended that the Federal government continue support of ongoing government sponsored program (SIC) to develop SO_x processes.

At this point, Mr. President, I wish to read excerpts from an October 13, 1972, letter from EPA Deputy Administrator Robert Fri to the Office of Management and Budget:

(The proposed reductions for stationary source air pollution control technology) will . . . eliminate the funding of the sixth (sulfur oxide) flue gas control technology demonstration and prevent EPA funding of the completion of the fifth. *This abandons the Presidential commitment to fund six of these demonstrations.* (Emphasis added.) Eliminating these demonstrations does increase the risk that we will ultimately not be able to sustain the large scale steam generation SO_x new source standard, but we think this risk is not unacceptable in view of the current legal situation and the progress that has been made in the first four demonstrations, in the private sector since the standard was set, and in foreign countries.

The irony of this situation is characterized in Mr. Fri's own words:

(EPA is) capable of achieving the most pollution abatement in those areas where we have the best legislative mandate. The Clean Air Act is our best legislative mandate. It also has congressional mandates which would be very embarrassing to do a poor job on.

However, Mr. President, as recent events have shown, there is serious doubt whether U.S. energy industries can both maintain reliable energy supplies as well as meet air quality control requirements. This is exemplified in the recently passed S. 2589, the National Energy Emergency Act of 1973, which provides a variance procedure from the requirements stemming from the Clean Air Act as amended.

This legislative action would not have occurred had the United States had a balanced and comprehensive national fuels and energy policy which reflected environmental concerns. For this reason, S. 1283 provides in section 106 for an acceleration of the commercial demonstration of environmental control systems necessary for the timely implementation of air pollution control standards and water pollution control standards established pursuant to Federal and State laws.

It is intended that the chairman of the management project work closely with the Environmental Protection Agency in this effort. This should be done on a transfer-of-funds basis; however, where the EPA's program effort is considered inadequate by the management project, it is not intended that the chairman is not to be restricted from initiating the necessary actions under this provision of his own.

This measure represents a concerted effort by Senator JACKSON, the able chairman of the Senate Interior Committee. Under his leadership, the National Fuels and Energy Policy Study has developed a comprehensive and significant record to support the need for this legislation. Senator JACKSON has my commendation for his diligence, in cooperation with the able ranking minority member of the committee (Mr. FANNIN), in bringing this significant bill before the Senate. This measure also represents the combined efforts of the other members and ex officio members of the Senate's Energy Policy Study, including Senators BIBLE, CHURCH, METCALF, JOHNSTON, ABOUREZK, HASKELL, HANSEN, HATFIELD, BUCKLEY, MCCLURE, BARTLETT, MAGNUSON, COTTON, PASTORE, BAKER, DOMENICI, and this Senator.

The research strategy and priorities set forth in S. 1283 will launch the United States on a program dedicated to the achievement of domestic energy self-sufficiency. The policies set forth in the measure are compatible with the eventual congressional creation of the President's proposed Energy Research and Development Administration. This other measure is a reorganization of Federal energy research activities.

We have had two votes. I will not go into a checkback on what took place. The record will delineate what took place. This legislation S. 1283, provides direction and purpose for ERDA at such time as it is created.

Mr. President, I fully support the policies and purposes set forth in the Energy Research and Development Policy Act of 1973 and recommend its passage.

As an active cosponsor of the bill and as a diligent participant in its preparation, I plead with my colleagues to underwrite this massive undertaking for the future security of our Republic and the well-being of our people.

Mr. JACKSON. Mr. President, I do want to take this opportunity to express once again to the distinguished Senator from West Virginia, the chairman of the Committee on Public Works, my appreciation for his leadership in the area of research and development in connection with nonnuclear matters. The Senator from West Virginia has been a pioneer in this field.

In our report on page 24 there appears the following statement, which I wish to read for the RECORD:

Senate concern for energy and development dates to 1943 with the introduction by Senator O'Mahoney, Chairman of the Senate Interior Committee, of the Synthetic Liquid Fuels Act. A similar measure was introduced by then Representative Jennings Randolph of West Virginia in the House of Representatives. Subsequent enactment of this measure in 1944 initiated an eight-year program for the construction and operation of demonstration plants to produce synthetic liquid fuels from coal, oil shale, agricultural and forestry products, and other substances in order to conserve and increase the oil resources of the United States.

More recently, on March 2, 1961, Senator Randolph introduced Senate Resolution 105, providing for the creation of a Senate Special Committee on a National Fuels Study. The measure was passed September 11, 1961, and in 1962 the study group was established in the Committee on Interior and Insular Affairs, with ex officio members, including Senator Randolph from other committees.

Mr. President, I simply wish to reiterate the important role that the Senator from West Virginia has played since the very inception of this program, and ask unanimous consent for the pertinent excerpts from the report to be included in the RECORD at this point.

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

IV. LEGISLATIVE ACTION IN THE SENATE RELATED TO ENERGY RESEARCH AND DEVELOPMENT

Senate concern for energy research and development dates to 1943 with the introduction by Senator O'Mahoney, Chairman of the Senate Interior Committee, of the Synthetic Liquid Fuels Act. A similar measure was introduced by then Representative Jennings Randolph of West Virginia in the House of Representatives. Subsequent enactment of this measure in 1944 initiated an eight-year program for the construction and operation of demonstration plants to produce synthetic liquid fuels from coal, oil shale, agricultural and forestry products, and other substances in order to conserve and increase the oil resources of the United States.

More recently, on March 2, 1961, Senator Randolph introduced Senate Resolution 105, providing for the creation of a Senate Special Committee on a National Fuels Study. The measure was passed September 11, 1961, and in 1962 the study group was established in the Committee on Interior and Insular Affairs, with ex officio members, including Senator Randolph, from other committees.

The study group completed reports on various energy issues, including development of a domestic shale oil industry, the role of Government-sponsored energy research, and energy self-sufficiency.

Since then, a number of Senate resolutions and bills have been passed relating to specific and particular energy research needs. But no comprehensive energy R. & D. program resulted.

Subsequently, in 1971, the Senate initiated the National Fuels and Energy Policy Study. The events leading up to the initiation of this study are described in the "Legislative History of Senate Resolution 45," prepared by the Senate Committee on Interior and Insular Affairs:

By the summer of 1970 it was becoming increasingly apparent that the abundant supply of low-cost energy that had characterized the American economy would no longer be available. During the previous year, hearings on the declining reserves of natural gas had been held by the Senate Interior Committee and there was general agreement among the witnesses that the gas reserve to production ratio would continue to decline. During the summer and fall of 1970 brownouts occurred in some parts of the country due to a lack of electric generating capacity.

On July 16, 1970, Senator Randolph introduced S. 4092 to establish a Commission on Fuels and Energy. The bill was cosponsored by more than 50 other Senators. On introducing the bill Senator Randolph said:

This Commission would make a detailed investigation and study of the energy requirements and fuel resources and policies of the United States with respect to the different type of fuels and energy, and would report to the President of the United States and to the Congress . . .

Hearings on S. 4092 were held by the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs on September 10 and 11, 1970. Statements were received from forty-four witnesses. . . .

By the time of the hearings the bill had 61 cosponsors and several more were subsequently added.

Both management and labor organizations of the coal industry strongly endorsed the bill.

In general the coal industry witnesses were concerned over the imbalance in Federal research and development funds among the fuel sources. This concern was expressed by the National Coal Policy Conference witness as follows:

Will the Government correct its present imbalance in Federal funds for energy and fuels research and development? Important as nuclear power is, there are processes for making gas from coal, extracting oil from shale, and other synthetic fuel and energy generation developments which warrant substantial Federal attention in terms of money and men. Most of these processes would create little, if any, pollution and several of them, if successful, may well achieve significant cost reductions in the generation of electricity. Magneto-hydrodynamics and fluidized-bed combustion are examples.

The major theme of all the witnesses was the need for a long-range, coordinated natural energy policy which would prevent the various agencies with energy responsibilities from following conflicting courses of action.

Despite the unanimity of opinion among all the witnesses concerning the need for a national energy policy to prevent future shortages and to assure adequate supplies of secure energy at low costs, no further action on S. 4092 took place in the 91st Congress. This inaction was the result of both the position taken by the administration with respect to the need for a commission and the termination of the 91st Congress. On December 11, in a letter to the Chairman of the Committee on Interior and Insular Affairs from G. A. Lincoln, Director of the Office of Emergency Preparedness, the administration repeated the position it had taken earlier in a letter to Senator Jackson dated November 5, 1970, from the Office of Management and Budget, Executive Office of the President:

It would appear that the study proposed by S. 4092 would closely parallel and duplicate the study requested by the President which is now well underway. By contrast, enactment of S. 4092 and appropriation of funds to support the proposed Commission, appointment of Commission members, selection of Commission staff, and other necessary organizational steps would necessarily delay the commencement of the Commission's study.

Consequently, to avoid duplicative studies and to avoid the delays that would result if the Commission study were substituted for the Council study, I recommend against the enactment of S. 4092.

On December 22, 1970, Senator Randolph summarized the actions that the Senate had taken with respect to S. 4092 and reported on the adverse view expressed by the Office of Management and Budget. He then suggested that:

In view of the administration's reluctance to participate in a joint executive-congressional study along the lines proposed in S. 4092, Senator Jackson and I have reviewed alternatives. We are in agreement that the most feasible vehicle for an urgently needed congressional effort would be a resolution empowering the Senate Committee on Interior and Insular Affairs to make a detailed fuels and energy study and to report its recommendations during the 2-year life of the next Congress beginning in January 1971 and extending to January 1973. No other means is known that can activate this vital effort without further lengthy delay.

On introducing Senate Resolution 45 on February 4, 1971, which would authorize the Senate to make a study of national fuels and energy policy, Senator Randolph disagreed with the administration position concerning the need for a commission.

[However,] since the Commission was not acceptable to the administration, he suggested an alternative:

The administration, nevertheless, has made its decision not to be a partner in a Fuels and Energy Commission with congressional and nongovernmental members. That is its prerogative. The exercise of that prerogative kills the commission concept. But killing the commission concept and placing reliance entirely on the proliferated activities in the executive branch does not necessarily solve the fuels and energy problems which many knowledgeable persons consider to be of crisis proportions over the long range, even though some shortage solutions may have emanated from the several instrumentalities created by the President.

Realism forces us to write off the Fuels and Energy Commission approach. Nevertheless, there is too much need for prompt and careful attention to the fuels and energy crisis within the legislative branch for that attention to be excessively delayed. Hence, with the cosponsorship of the junior Senator from Washington (Mr. Jackson), Chairman of the Committee on Interior and Insular Affairs, and other Senators, I am introducing today a Senate resolution to authorize a study of national fuels and energy policy by the Interior Committee, with the cooperation and assistance of the bipartisan leadership of the Committees on Commerce, Public Works, and Atomic Energy.

The objectives of Senate Resolution 45 and S. 4092 were nearly identical except for the vehicle to carry out the study. Under Senate Resolution 45, the Senate would proceed with its own study, using staff employed for this purpose, and would report recommendations to the Senate for a national energy policy.

As there had been for S. 4092, there was unanimous agreement about the need for the development of a national fuels and energy policy as contemplated by Senate Resolution 45. The reasons were stated by Senator Randolph when he said:

My objective in introducing Senate Resolution 45 was to insure that crisis not repeat itself. The immediate goal of the President's Domestic Council is to formulate our energy goal for the 1970's. The charter of the study under Senate Resolution 45 is to define and provide a definitive national fuels and energy policy for the next 20 or 30 years, where none now exist.

On April 5, 1971, the Senate Interior Committe issued Report No. 92-53 to accompany Senate Resolution 45 favorably reporting on the resolution. The committee amended the original resolution to reflect its complementary nature with the Mining and Minerals Policy Act of 1970 and also adopted a technical amendment regarding funding. The report was sent to the Committee on Rules where after several clarifying and technical amendments the resolution was reported (No. 92-87) favorably on April 26, 1971. The resolution was agreed to by the Senate on May 3, 1971.

Pursuant to Senate Resolution 45, the Senate Committee on Interior and Insular Affairs has conducted numerous hearings relating directly to energy research development needs:

Mr. RANDOLPH. Mr. President, I, of course, am grateful for the generous remarks which have been made by the Senator from Washington.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. 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. HANSEN. Mr. President, I rise to make a few observations this afternoon with respect to the role that a freer marketplace could play in our research and development effort. When the minority views were published on the National Energy Emergency Act of 1973, Senators FANNIN, BUCKLEY, BARTLETT, and the Senator from Wyoming observed that during the year 1973 the Committee on Interior and Insular Affairs had then reported 6 major bills affecting energy. They were: the Land Use Policy and Planning Assistance Act, the Surface Mining Reclamation Act, the Emergency Petroleum Allocation Act, the Federal Land Right-of-Way Act, the National Fuels and Energy Conservation Act, and the National Energy Emergency Act.

Since the time of the publication of that report, there has been reported by the Senate Interior and Insular Affairs Committee also the National Energy Research, Development, and Policy Act, now before the Senate.

We deplored the fact that at that time, with the exception of the Alaska pipeline bill, which is, of course, the Federal Lands Right-of-Way Act, which was passed, and an amendment to that law, the stripper well amendment, all of the legislation then reported by the Senate Interior and Insular Affairs Committee did very little to address the problem of supply. And I find singularly lacking now in the bill before us steps that could be taken and that should be taken to do something about supply in the short term.

If we examine the decades behind us, we find that the oil companies, and the oil industry in a broader sense, have had a number of very interesting experiences. Before conservation measures imposed by the States came into being, there was a tremendous competitive desire manifested in the drilling and producing of wells, particularly in Texas, to reflect the concern of the property owners to get their oil above ground, where they could keep it, hopefully where they could sell it, before the owner of the property alongside their well drilled and pumped and drained the neighbor's land.

As a consequence, the States then began to take some steps toward conserving this depletable natural resource which had focused so importantly upon our lives. Those conservation measures brought into being an interstate oil compact which reflected a common concern by many of the States to determine how best we might utilize and produce the oil and natural gas that were then becoming more important to all of us in America.

Out of that concern for regulating the development and production of oil and natural gas came into being a concern for the position of our country because of trends that could have placed a growing dependency upon foreign sources of supply.

As a consequence of that, back in the 1950's, Congress, in its wisdom, passed the mandatory oil import program, largely at the instance, or largely, I should say, as a result, of the persuasion of the oil producing States and of the oil industry.

It was then recognized that America could become unacceptably dependent upon foreign sources of supply if we did not take steps to better pace our domestic search for, discovery of, and production of oil in this country. It was agreed that an acceptable level of Federal dependence might be 12.2 percent of our total production. So we find the mandatory oil import program was brought into being reflecting generally this concern. The idea was that if we were to permit the importation of roughly 12.2 percent of our domestic needs—and as a consequence we were giving the incentive and the encouragement to the domestic oil industry to provide the other 87-plus percent. By virtue of the stimulus this curtailment of imports would have, we would provide industry the incentive to see that most of our consumption in this country could be supplied by domestic sources.

We never let the program really work as it was intended by its framers it should. Rather, what we did was start making first one and then another series of exceptions. We let certain free ports be established, and we permitted oil to come in without having to meet the test of staying under the accepted amount that could be imported. We found all sorts of ways of permitting exceptions, so that in recent years we found that we were importing up to 30 percent—about a year ago—when the President finally phased out the mandatory oil import program completely.

Where we failed in doing the things necessary to make that program work was that, while we ostensibly went through the motions of saying that we would not import over a certain amount of oil, actually in practice we permitted other imports to come in, and there was not the concomitant increase in price that would have occurred.

As a consequence, if we examine the year 1956 and compare it with 1972, we find that while we were then drilling roughly twice as many wells as we drilled in 1972, and yet, if we compare the amount of oil we used in this country in 1956 with 1972, we find that, despite the fact that drilling activity had dropped off by roughly half, we were using twice as much in 1972 and is 1956.

Had we kept pace with the amount of oil and gas that we were using, or increasingly using, during those years, we would have required four times the drilling activity we had in 1972 as was in fact actually in existence in 1972.

I call attention to what we did during World War II, when it was recognized that, despite the reduced manpower on the farms and ranches throughout America, the need for increased food production was never greater. America faced a situation that, in some respects, is similar to that which is faced today. At that time the farms and ranches were stripped of most of the kind of help that they would like to have. Those who remained on the farms for the most part were older people and youngsters of less than military age. Yet that is the situation that America faced when it recognized the need to do something about production.

What did this country do at that time? It authorized the War Production Act to permit the Government to guarantee a price for wheat that the framers of the regulations believed would give adequate stimulus to the farmers of America to make the necessary efforts to meet the needs not only of this country but of our allies around the world.

And the response was overwhelming despite reduced manpower and despite all of the other handicaps that then faced the farmers of America. There was a great outpouring of wheat simply because this country had the good judgment to say, "We will guarantee the farmers a sure profit on all the wheat they can produce." We let the old laws of supply and demand work then as I believe they can work now.

I would like to suggest that we give some thought this afternoon and in the days ahead as to the role that the laws of supply and demand can play in helping to meet and solve the energy crisis we now have.

I say that as we debate the pending bill and as we consider the adequacy of $2 billion a year on research and development over a 5- or 10-year period, whatever it may be. As we examine all of the sources of energy we have, let us not forget what a significant and im-

portant response we could have from the private sector of the economy, from businessmen, if we were to let price be a greater determinative in the kind of national effort we are making.

Many people have deplored the coal industry, have criticized it, have said that they failed to take advantage of an increasingly serious fuel situation and do something about coal gasification, coal liquefaction, and the improved technology in coal mining, both underground and surface mining.

I want to say a word in support of the coal industry. There really is little incentive for the coal industry to try to do any deep research in coal gasification and coal liquefication when we find that the Federal Power Commission, because of its attitude with respect to the price of natural gas, put a price lid on natural gas. They completely obliterated any competition. The price of natural gas was held down so low that the coal industry had no incentive at all to try to improve its processes and techniques that are now so sorely needed.

All we would have to do, if we wanted to give a real shot in the arm to coal gasification and coal liquefication, would be to let the price rise. And believe me, Mr. President, the price is going to rise. It is going to rise whether or not we decide to deregulate natural gas, as indeed I hope we will.

I understand that later this week the distinguished Senator from New York (Mr. BUCKLEY) will introduce an amendment to do precisely that. And he will have, I think, abundant evidence to indicate that this is the best possible action that the Congress of the United States could take at this time to solve the energy crisis.

Mr. LONG. Mr. President, would the Senator yield?

Mr. HANSEN. I yield.

Mr. LONG. Mr. President, the Senator is aware, is he not, that the economic principle of a free flow of capital still applies. And in the absence of any law to keep the money inside this country, if people can produce oil in Nigeria or Venezuela or anywhere else and ship it here for $12 a barrel, and when they produce it here, they cannot get a price to compare with that, why should they not invest their money outside of the United States in these foreign countries where they can get a much higher price?

Would it not make sense for one to invest his money where he can get the best return?

Mr. HANSEN. The Senator from Louisiana is entirely right, as he almost always is. I do not disagree with him very often. I would have to say that the most recent contract that I have learned of, negotiated between an American supplier and Nigeria, reflects a price paid for 10 million barrels, according to my information, of $16.80 a barrel.

The point that the Senator from Louisiana is making is precisely that. What reason is there to invest money in America at the present price?

The late Dr. Pecora said that we probably had 100 times the amount of oil and gas that we consumed in 1971. He said about a year and a half ago that in his judgment, drawing upon his vast knowledge, we had probably 100 times the amount of oil and gas yet to be discovered in this country as we used in 1971.

The point of the Senator from Louisiana is precisely correct. There is no reason.

Mr. LONG. Mr. President, is it not true that if people are permitted to sell the gas for what it is worth in a free market in competition with oil and coal, gas will be produced. They sell their gas for 25 cents a thousand when they can get 50 cents and maybe 70 cents or more for their gas. Does it make any sense for them to sell the gas produced in Louisiana, Texas, or Wyoming on an interstate basis for 25 cents if the buyers in their own State would pay them twice that amount for it?

Mr. HANSEN. It does not make any sense at all. As the Senator knows so well, this is precisely the reason that we have seen natural gas go into intrasales. In my State of Wyoming we consume a rather significant amount of natural gas in the refining of Trona. We use it in other places, and I am certain that in the great State of Louisiana, my good friend from that State could cite 10 examples or perhaps 100 examples for every one that I could think of where it has gone into other uses despite the fact that according to the best and clearest feeling we have, it has gone into other products for the simple reason that they can get more for it. Is that correct?

Mr. LONG. The Senator is correct. Furthermore, in Louisiana, where we probably produce more gas per acre than any other State of the Union—and we can use all the gas we can get, because we can find a use for it in Louisiana—our problem is that we do not have the pipelines to move it around on an intrastate basis.

If we put it in a pipeline and move the shipment in intrastate commerce, the Power Commission ruled—and I believe with court decisions to back it up—that it has been intermingled and that, therefore, it is subject to the Federal Power Commission.

So the State is now laboring very hard to build a whole network of pipelines, particularly intrastate, which parallel the course of the interstate pipeline, and using all of that to move gas around in intrastate to avoid the problem of trying to have the Commission force someone to sell his gas for less than it is worth and make gas available within the State without using the interstate pipeline in order to move the gas at a time when we are squeezed for oil and are short on everything in the energy field. It really does not make a lot of sense to deny someone the right to sell his gas to an interstate company for what the gas is worth among the local people.

We have these consumer oriented persons who want to try to seize the gas for the Federal Government, and hopefully seize it for 25 cents and force people to sell it in the interstate market for less than it is worth.

But does the Senator really see how, under the Constitution, anyone can be made to sell his product at a price that is far below what people are willing to pay for it right there in the community where he is producing it, or in that State? It would seem to me that that would be confiscation, or a denial of due process, to try to condemn or take something at a price far below what the person is being offered for it within his State.

Mr. HANSEN. I think the Senator is precisely right. I have no doubt at all but that if the Federal Government tries to reach in and to abrogate contracts or to, in effect, tell a person who has every legal right to drill, who has every legal right to produce, and who has every legal right to sell as he chooses, that he has to do something differently than he would otherwise do it, that would result in a diminution of the profit he might otherwise make, it would certainly occur to this Senator, though he is not schooled in the law at all, that that would constitute a taking and would raise the constitutional question as to the right of the Federal Government to do that.

My dear friend from Louisiana is far better able to answer this question than am I. I would certainly think, though, that I can find no reason at all to disagree with the conclusion that seems to be implicit in his question. My answer is unequivocally Yes, it would raise a constitutional issue and would constitute a taking, and I think ought to be avoided at all costs.

Mr. LONG. It seems to me that at a time when we are hard pressed to obtain enough oil, we are having difficulty obtaining enough coal, and if we can obtain it, we are having difficulty moving it to the customer, where we have the pipelines built to take the gas to the users who definitely need it, and where, in the absence of obtaining these supplies, they are going to have to pay a higher price to get the same number of thermal units from oil or from coal, it just makes all the sense in the world that those who have the gas in the areas through which the pipelines pass should be permitted to sell it for what the gas would sell for on a competitive basis. To do any other thing seems to me to be ridiculous. It is a method of creating an energy shortage. Today we would have a great deal more gas available to the consumer if it had not been tied up under regulations where companies were not permitted to sell it in competition with coal and oil.

Mr. HANSEN. There is no question about that. Our reserves of natural gas have steadily decreased following the imposition of FCC regulations. Our reserves have grown shorter each year, as I understand, almost without exception.

I ask unanimous consent to have printed in the RECORD at this point a chart which discloses the approved reserves of liquid hydrocarbons and natural gas beginning with the year 1953, bringing it up to 1972.

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

PROVED RESERVES (LIQUID HYDROCARBONS AND NATURAL GAS)

Jan. 1	Liquid hydrocarbons (million barrels)			Natural gas (trillion ft³)	Reserve production ratio		
	Crude oil	Gas liquids	Total liquids		Crude oil	Total liquid	Natural gas
1953	27,961	4,997	32,958	198.6	12.4	13.1	23.1
1954	28,945	5,438	34,383	210.3	12.5	13.2	22.9
1955	29,561	5,244	34,805	210.6	13.1	13.6	22.5
1956	30,012	5,439	35,451	222.5	12.4	12.8	22.1
1957	30,435	5,902	36,337	236.5	11.9	12.5	21.8
1958	30,300	5,687	35,987	245.2	11.8	12.4	21.4
1959	30,536	6,204	36,740	252.8	12.9	13.5	22.1
1960	31,719	6,522	38,241	261.2	12.8	13.3	21.1
1961	31,613	6,816	38,429	262.3	12.8	13.2	20.1
1962	31,786	7,049	38,835	266.3	12.6	13.0	19.9
1963	31,389	7,312	38,701	272.3	12.3	12.8	20.0
1964	30,970	7,674	38,644	276.2	11.9	12.4	19.0
1965	30,991	7,747	38,738	281.3	11.7	12.2	18.3
1966	31,352	8,024	39,376	286.5	11.7	12.1	17.6
1967	31,452	8,329	39,781	289.3	11.0	11.5	16.5
1968	31,377	8,614	39,991	292.9	10.3	10.9	15.9
1969	30,707	8,598	39,305	287.4	9.8	10.3	14.8
1970	29,632	8,143	37,775	275.1	9.3	9.6	13.3
1971 [1]	29,401	7,703	37,104	264.7	8.8	9.1	12.1
1972 [1]	28,463	7,304	35,767	252.8	8.7	8.9	11.5

[1] Excludes 9,600,000,000 barrels of crude oil and 26,000,000,000,000 cubic feet of natural gas added for Alaskan North Slope.

Mr. HANSEN. Further confirmation of this trend is evidenced as follows:

The Federal Power Commission conducted a study which projects the natural gas shortfall if present trends continue. The FPC's demand and supply projections indicate that such shortages will increase in volume and become more widespread. The FPC's Bureau of Natural Gas projects that demand for gas will exceed supply by 3.6 Tcf in 1973, 9.5, 13.7, and 17.1 Tcf in 1980, 1985, and 1990, respectively, despite the addition of gas supplements (22 Tcf is presently consumed nationwide). The FPC's projections are based on more moderate growth rates than were experienced in previous years.

To close this gap, an annual "finding rate" (annual additions to reserves) of approximately 37 Tcf would be required starting in 1973. This level of development represents a sustained level of annual new additions to reserves equal to that attained in 1970 when 26 Tcf of Alaskan gas were added to the reserve inventory. Put another way, the annual finding rate would have to equal one and one-half times the all time record for annual U.S. (non-Alaskan) reserve additions that was reached in 1956 of 24.7 Tcf, at the same time that supplemental sources are developed.

Those reserves have decreased in terms of use each year, beginning with January 1, 1953, bearing out the point that the Senator makes. At that time, they stood at 23.1 years of our then annual use. They have dropped, I think, almost steadily downward, so that in 1972 they were less than half that amount, or 11.5 years, and there is no question, but that the conclusion reached by the Senator from Louisiana is accurate: We have held the price down, and we have discouraged the drilling for new reserves.

It is interesting to note that in the last few months, with the slight relief that has been given the domestic gas industry, there has been an increase, so I am told, of about 13 percent intensification or increase in drilling activity, that, I think, bears out the very point the Senator is making: That given relief in the price field, there will be a great jump in the drilling rate. I think that can be documented. I should say that is one of the studies that was done on this whole problem of our energy supplies, it might be observed that the Harvard Law Review for April 1973, contained an article entitled "Natural Gas Shortage and the Regulation of Natural Gas Producers." The article pointed out a number of conclusions. I should like to read a brief excerpt from the article:

Natural gas now supplies more than a third of America's energy needs and exists in the ground in sufficient quantities to forestall any danger in the foreseeable future of its extinction as a natural resource. Nevertheless, there is now, in the early 1970's, no lack of evidence that the United States is in the throes of a serious natural gas shortage. This article will show that shortage is a direct result of FPC regulation of producers' prices and that the shortage has been disproportionately borne by home consumers. Moreover, the article will show that the losses arising from the shortage have been so great that they cannot rationally be worth the pursuit of whatever valid purposes might be served by lower user prices.

I think that statement bears out the very point the Senator from Louisiana was making.

Mr. LONG. By keeping the price of gas far below where it should be, by shutting down the coal mines and keeping new reserves from being processed, and by diverting people from the use of coal to the use of gas, when we should have been moving in the direction of more utilization of coal, through new coal technology, including mine openings and new coal reserves—all of these things are against the national interest.

Mr. HANSEN. The Senator is exactly correct. I thank him for the observations he has made. They square precisely with my conviction, as we take all these emergency steps. I commend him, as I have on numerous occasions commended the distinguished chairman of the Committeee on Interior and Insular Affairs, Mr. JACKSON, for his leadership in trying to do something to solve the problem. I salute my good friend from Louisiana for his participation and for the contributions he so oftimes makes in spelling out how the laws of supply and demand work. As a matter of fact, I have on numerous occasions told the story I first heard him tell about the grocer who was selling tomatoes for 30 cents a pound.

As I recall, a housewife came by and said, "I can buy tomatoes down the street for 20 cents a pound."

The grocer said to her, "Why don't you go down the street and buy them for 20 cents a pound?"

The housewife said, "I just came from that store, but they are out of tomatoes."

The grocer replied, "If I were out of tomatoes, I would sell them for 10 cents a pound."

Mr. LONG. As long as we have tomatoes of the same quality as the other fellow's tomatoes, and sell them at the same price, we are not going to have a shortage of tomatoes. The easiest way to create a shortage is to sell something artificially cheap.

Mr. HANSEN. Is not that what we have done with natural gas?

Mr. LONG. That is what we have done with natural gas. We have sold it for below what it is worth. We have created a shortage. The shortage is not going to be corrected until the price comes back into line. Removal of price controls will produce more energy. Until we let the price of it come in line with the cost of creating energy with coal and oil, we will have a shortage. Furthermore, it will hold back the technology of developing coal and developing shale, because we are forcing someone to sell a product at a price which does not permit coal and shale to compete—that is, freely compete as they should.

Mr. HANSEN. The Senator is precisely right. For those persons who fear what might happen with deregulation, I should like to observe that it has been pointed out by many people that, well, this may be a good answer, it may be a way to do something about supply, but we would not dare take that, because the price would rise and the oil companies would make windfall profits.

All I can say to that argument is that, first, so far as the price rise is concerned, we do not have to worry about that. It will rise and if we do not do something about stimulating the domestic production in this country, recognizing that this Nation gets about 78 percent of all its energy from oil and gas alone, and having in mind that there was just recently, within the past week, negotiated a contract for 10 million barrels of oil from Nigeria at $16.80 a barrel, so that we are really going to have that price rise.

So that the best way we can avert what would otherwise be an even more serious condition facing the country is to pull out all the stops and do everything we possibly can to stimulate production here. Does not my good friend from Louisiana agree that that is correct?

Mr. LONG. The Senator from Wyoming is correct. He knows also that when one expresses fear that the domestic producer might make a windfall profit, he should look at what he has really succeeded in doing, that is, managed to keep the independent from making enough profit in order to stay in business. So that they have been liquidated. Half the independents, the oil and gas people, and half the oil producers—half have been put out of business. That is the case in Louisiana and I am sure it is the same in Wyoming.

Mr. HANSEN. Let me make this observation, talking about windfall profits the former president of the Petroleum

Association of America, presently the chairman of the National Petroleum Council, pointed out that the independent made an average of about 3.5 to 6 percent interest on his total investment. That is precisely the condition I think the Senator has in mind in addressing himself to this problem. I wanted to make that observation.

Mr. LONG. Plus that, the independents have been going out of business, selling their rigs, their drilling equipment, for anything they could get—including scrap. They are drilling half as many wells as they did 20 years ago. We need all those wells that could have been drilled before this time, because now we cannot get them operating again that quickly because of the shortsighted policy which has made this Nation so dependent on foreign oil for its energy generally. We are paying a price for it. The sooner we recognize that we have denied this industry—and I am talking about domestic production, I am not concerned about the fellow in Saudi Arabia, but the poor devil here who has to go out of business or contain his operations when the Nation needs his production so badly. In order to get it we have to give him a fair profit.

Mr. HANSEN. The Senator from Louisiana is so right. There is another source of energy we could tap. It has been estimated that we have roughly 40 billion barrels of proven oil reserves in America today and those on the Outer Continental Shelf.

If we recovered 1 percent more of that reserve on what otherwise would be recovered, there is 400 million barrels of oil available. The simple way, I think, that we could make certain we would have that oil is to let the price rise so that it would be profitable to produce it. Because, is it not a fact that of the roughly 350,000 stripper wells we have in this country today, and every well sooner or later becomes a stripper well as the production drops, when we reach the point where it costs as much to produce the oil as the oil sells for when we get it above ground, that is when that is a marginal well, that is the day we plug it.

If that is a fact, would not also follow, if we were to allow the price to rise, that we would have those wells pumped more days. We would get more oil out. The wells have an average production of three and a half barrels per day, so if we multiplied that by the 350,000 wells we have, we would have roughly 1,250,000 barrels of oil per day that would come from the stripper wells.

I should think it would be very much in the interest of America to get that oil brought out.

Now may I yield to the Senator from Washington (Mr. JACKSON) without losing my right to the floor.

Mr. JACKSON. Mr. President, I appreciate that. If I could offer two technical amendments, and they are at the desk, necessary to correct errors made in preparing the bill—I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. (Mr. HUDDLESTON). The amendments will be stated.

The legislative clerk read as follows:

(1) On page 82, at line 6, after the word "shall," insert the word "not".

(2) On page 71, at line 16, delete the word "stations", and insert instead the word "station".

Mr. JACKSON. Mr. President, these amendments are self-explanatory. They are purely typographical errors.

The PRESIDING OFFICER. Without objection, the amendments are agreed to en bloc.

Mr. JACKSON. Mr. President, I ask unanimous consent that Mike Tolson and Ben Cooper of my staff be granted the privilege of the floor during the consideration of the pending measure.

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

Mr. HANSEN. Mr. President, the Senator from Louisiana and I were speaking about what could be done to increase supply. I say again that when we think about the amount of oil that is in place—it is there—for Senators who may not be too familiar with the oil industry, it is my understand that our techniques, the technology we have developed over the years is such that it has resulted in our being able to bring above ground and actually produce about 30 percent of the oil that is in place in the ground on the average. So anything we can do to make it more profitable to bring that oil above ground means that we will have that much more oil. It is that simple.

Now there are Senators who say we would not dare deregulate new natural gas because a price increase would result. I say simply that there is one thing worse for the workingman who has to go by automobile from his home to his job that would result to him from a rise in the price of gasoline, and that is not to have a job. It is just that simple.

Right today, because this is an energy intensive country, because this country does move, and work, and function, and almost live on oil, so to speak, it is terribly important that we have enough oil to go around. We are not going to have enough oil this winter, no matter what we do. So I think it becomes all the more important to do everything now that we can, as early as possible, to see that we do not cap any wells that could produce 1, 2, 3 barrels of oil per day. There is no point at all in our arbitrarily keeping the price down and making the oilman have to make the tough decision that will recommend that he close the well, or plug the well. Now what they are doing is to pull out the piping and sell the used pipe, which is worth more than the new pipe because we have held the price down on oil and gas but have also put a price on tubular goods, oil well casing, drilling bits, and that sort of thing. As a consequence, we have many things badly dislocated.

But I say again that the worst thing that can happen to an American these days is to be out of a job and to have a cold home. Though we will have some of that this winter, we will not have as much as will otherwise be the case if we persist in saying we are going to keep all the price controls on everything. It is just that simple.

I would hope that Senators, in voting later on the issue of decontrolling natural gas now, might stop to examine the alternatives and to ponder what their actions mean if they say, in an effort to assure their constituents that they are going to try to keep prices reasonable, they make no product available. It is like the lady who could not buy any of the 20-cent tomatoes because that grocer was out of tomatoes.

I think that most Americans this winter will vote for having oil and having to pay more for it than they will vote to have a low price on gas and having to buy that gas with welfare checks because they are out of a job.

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

Mr. HANSEN. I yield.

Mr. LONG. Mr. President, I did not hear the beginning of the Senator's statement, but he said something which I believe 1,000 percent.

As to having a lot of people out of work, all we have to do is turn on our television these days and see that another big plant has been closed down for lack of energy. Plants that manufacture private airplanes have been closing down, because in some instances 10 or 20 percent of the flights have been canceled. Airline pilots are told not to come to work, that they can have a big vacation, without pay, until further notice, which might be a year or two from now.

They are closing down automobile assembly lines, and those people are being laid off. Everywhere you turn, another industry is closing down because they are short of energy. They ought to be trying to find jobs for people in this country between now and Christmas. What better place to put somebody to work, with rising unemployment, which is going to be a very desperate problem between now and the spring, than drilling some wells or mining some coal or opening up some new energy sources for the people?

Is it not true that in Wyoming as well as in Louisiana, anybody who knows anything about the oil and gas business, if the materials are made available to them, will be out there in a hurry, drilling or mining or trying to find some sources of energy? All they need is the incentive and the opportunity to make a profit.

Mr. HANSEN. The Senator from Louisiana is correct. He is as right as rain. That is exactly the way it will be. The one certain, positive, unfailing way to achieve that incentive, to achieve the desire to do the job, is to make certain that that industry is assured a profit.

With the return on the invested money of 3.5 to 6 percent, it is easy to understand why the drilling rate has declined despite the fact that our users of oil and gas were going up all the time. We find out, just as was predicted in the 1950's, that as our degree of dependency upon foreign sources increases, our latitude, our flexibility, the options we have in the field of foreign affairs, decreases.

The Arab countries have made abundantly clear to America and to the rest of the world that they are going to say to the world, "If you get our oil, you are going to get it on our terms." I think they are driving home to many Americans what Congress had in mind and was

aware of back in the 1950's, when it said, "Let us not develop a dependency upon any foreign source of supply."

People have said that we could always depend upon Canada; but, understandably, if I were a Canadian, I would do exactly what they are doing. When they run out of fuel, there is one person who comes ahead of an American, so far as they are concerned, and that is a Canadian. Is that not right?

Mr. LONG. I can recall the day when I stood here and debated this issue with the Senator from Wisconsin (Mr. PROXMIRE), and the press generally ridiculed me because I said that you could not rely upon having that Canadian oil available to you at all times. There might be reasons why the Canadians would not want it delivered. Someone suggested that it was not likely that we would have a war between the United States and Canada. But things other than war might cause the Canadians not to want to deliver the oil.

For example, the Arabs have now cut the Canadians off. The Canadians no longer feel like delivering oil to the United States. They were buying oil at world market prices and consuming it on their Eastern Seaboard, and in the West they were delivering oil to us at the American price, which is higher; so they won both ways. They got the world market price oil in the East, and they sold us their oil from the West at a higher price. One cannot blame the Canadians, when the Arabs cut off the oil on the Eastern Seaboard, if they used the oil in the West for their Eastern customers. They would be idiots not to do that.

Imagine the Prime Minister of Canada trying to explain to his people why people in Montreal and Quebec had to go cold for the benefit of the United States, when they had plenty of oil in the western part of Canada to take care of their needs.

One principle of democracy is that you are supposed to look after your own people first. Admittedly, in this country there are some who do not believe in that, but it is hard to get elected to office if you do not believe it.

Mr. HANSEN. My guess is that before this matter is over, despite all other considerations, despite Watergate, despite peace in the Middle East, despite Vietnam, and everything else, the one issue that is going to be uppermost and first in most people's minds, if their house is cold, if they are out if a job because the factory or the place of business where they work cannot get the energy, is, what are we doing about the source and supply of energy?

Would not the Senator agree with me that that is going to be the first question?

Mr. LONG. I could not agree more. If they are out of a job, they are going to be very concerned about that, and they will be very dissatisfied. If, in addition, they are cold, they are going to be twice as dissatisfied. I know that people are not going to vote for anybody they thought was responsible for their being cold and out of work.

I think it is about time that someone said here that it was not the oil import program that brought this mess about. The oil import quota system was designed to maintain here an energy system adequate to meet the needs of this country in the event the other countries did exactly what has happened. They would not let the oil import quota system work. It would have worked. Even with that limitation, the quota system did sustain enough of an oil and gas industry and coal industry so that at least we do have something for the American people. We are able to meet perhaps 75 percent of the requirements; but we would not have been able to meet 50 percent if we did not have the quota system.

Mr. HANSEN. We did not let it work for two reasons. First, we started making a lot of exceptions, so that instead of keeping it at 12.2 percent of imports, we kept it at 30 percent.

Second, we slapped on regulations that never let the domestic industry have the encouragement it would have had if we had let it keep pace with the consumption of oil.

We regulated natural gas and through one mechanism or another we either discouraged outright or in devious ways kept the price of oil and gas down. As a consequence we find today in America—and I was looking at the figures today of 1 month ago—the price of gasoline in this country is about one-half of what it is in the country with next lowest price, outside of the Arab countries. In one of the European countries it is practically double what it is here; and in the other European Common Market countries it is three times as much as it is here in America despite our standard of living, and our average annual wage or income, however one measures it, is far in excess of the other places. Yet these countries have gotten along and survived. I imagine many Americans are going to say, "It is all well and good to try to keep the price depressed, but we better change our tack when you are making it impossible for me to keep my house warm or for me to keep my job."

Mr. President, those are the issues that we have to face.

Mr. LONG. I thank the Senator.

Mr. HANSEN. I thank my colleague for his contributions.

Mr. FONG. Mr. President, it is heartening to know that the Senate is considering today legislation supporting geothermal energy as a part of the National Energy Research and Development Policy Act of 1973. I earnestly hope the Senate will give the geothermal provisions of the bill, S. 1283, the approval it merits.

Hawaii has a special interest in geothermal energy as a means of helping meet the energy crisis. Earlier this year the University of Hawaii was awarded a $252,000 grant by the National Science Foundation to launch a geothermal project on the island of Hawaii. Its objective is to investigate the potential of developing geothermal power for the State.

During the initial phase of the investigation, geological and geophysical surveys will be made in order to obtain data on the heat budget of the island and to identify the location of potential geothermal sources. Engineering, environmental, and socioeconomic tasks are also planned in order to evaluate the technical feasibility of power generation on the various islands of the State, should appropriate resources be discovered, and to assess the impact of such a development on the Hawaiian economy and lifestyle.

The project is cofunded by the State and the county of Hawaii and has raised the interest of the private utilities in the State.

The geothermal project is important to Hawaii because the State is now totally dependent on imported fossil fuels for its energy requirements.

The project has national relevance because data derived from it can be applied to subsurface heat sources found throughout the western half of the United States.

I am in hearty accord with the provision of S. 1283 which declares the policy of the Congress is to facilitate commercial development of geothermal energy by authorizing the Secretary of the Interior to guarantee loans for such purposes.

Hopefully, research into geothermal sources in Hawaii and elsewhere will expand the technology base for geothermal energy and help develop a low-pollution power source for Hawaii and the Nation. The loan guarantee program of S. 1283 can be most helpful in assisting the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes.

Mr. BAYH. Mr. President, as one who has long advocated an increased Federal effort in energy research and development, I was pleased to sponsor this legislation when it was introduced last March and rise today to urge its passage.

We are talking about spending a lot of money; $2 billion a year represents a significant, yet essential, commitment to making this Nation energy self-sufficient. This is an investment in our future economic well-being and crucial to removing an unacceptable dependency on foreign sources of energy.

As I said last March when I joined with the Senator from Washington (Mr. JACKSON) in introducing this bill:

> One essential point about the energy crisis which I fear is too little understood by the public is that we do not have a fuel shortage, we have a shortage of clean fuels. Suffice to say that unmined coal in the United States would easily meet our energy needs through the middle of the next century.

But we cannot use most of that coal in its present form to generate electricity or power our plants without paying an unacceptable price in poisoned air and widespread human suffering. So the obvious step, and one I have been working to achieve for years, is to develop commercial means of using that coal cleanly and efficiently.

This legislation provides hope that we are finally ready to make the commitment to take the laboratory-proven techniques of coal gasification and liquifaction and make them usable on a large-scale. If this is done it will free up limited oil supplies for those uses where only

oil will work, and it will guarantee that essential energy needs will be met for the foreseeable future.

I cannot help but recall that efforts other Senators and I made in previous years to increase the funding for the Office of Coal Research were rebuffed by the administration. Valuable time was lost, delaying the day when coal can take its rightful place in satisfying our essential energy requirements.

Even when this legislation was introduced 9 months ago we were told by the administration that such a commitment to energy research and development by the Federal Government was not necessary. Yet as the seriousness of our energy problem struck home, the administration came up with an energy R. & D. proposal which in dollar amounts and the key goal of self-sufficiency exactly parallels this legislation.

Mr. President, the United States simply cannot expect our huge and complex economy to function smoothly if it is heavily dependent on foreign energy sources. We cannot permit our economy to grind to halt, any more than we can let our foreign policy be dictated to by other nations. The only long-term alternative, then, is to fulfill the objective of U.S. energy self-sufficiency and this bill is a carefully considered, balanced vehicle to reach that goal. I urge its passage and hope the House of Representatives will follow our lead promptly so we do not delay this necessary effort any longer.

H.R. 11324—SUBSTITUTION OF CONFEREE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the name of the Senator from Maryland (Mr. BEALL) be added and that the name of the Senator from Alaska (Mr. STEVENS) be deleted as a conferee on H.R. 11324, to provide for daylight saving time on a year-round basis.

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

ATTORNEY GENERAL'S COMPENSATION AND MEMBERS FRANKING PRIVILEGE (H.R. 11710)—ORDER FOR BILL TO BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 11710 be held at the desk temporarily.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. Mr. President, reserving the right to object, what is that bill?

Mr. ROBERT C. BYRD. The so-called emoluments measure, from the other body.

Mr. ALLEN. What would be the action if it were objected to? Would it go to committee?

Mr. ROBERT C. BYRD. If this were objected to it would go to committee, yes.

Mr. ALLEN. Would the distinguished assistant majority leader be kind enough to explain what the bill is and what the purpose is of keeping it from going to committee?

Mr. ROBERT C. BYRD. The purpose of keeping the measure at the desk at the moment is to await the return of the Senator from Wyoming (Mr. MCGEE), who is the chairman of the Committee on Post Office and Civil Service, to see what his wishes may be in regard thereto.

Mr. ALLEN. I see. The bill, then, would not go to committee?

Mr. ROBERT C. BYRD. It would not go today, but upon his return—he was expected to return today but because of difficulties in arranging a flight reservation he could not be here today. Upon his return perhaps he will want the bill to go to his committee or perhaps he will not.

Mr. ALLEN. I wonder if we might agree it be held over until tomorrow awaiting the return of the distinguished Senator from Wyoming, and at that time the request might be made. In other words that it not go to committee at this time, but renew the request tomorrow.

Mr. ROBERT C. BYRD. That will be all right. If I do not make the request today it would go——

Mr. ALLEN. By unanimous consent it would remain at the desk until tomorrow.

Mr. ROBERT C. BYRD. That is all I asked for. If we do not get some consent request agreed to it will go to the committee.

Mr. ALLEN. But at that time it will go to the committee if further unanimous consent is not given that it remain at the desk.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. ALLEN. What is the unanimous-consent request as modified?

The PRESIDING OFFICER. That the mentioned legislation be held at the desk.

Mr. ALLEN. Well, I ask that the distinguished assistant majority leader amend that; that it be held at the desk until tomorrow awaiting the return of the Senator from Wyoming (Mr. MCGEE), and at that time if unanimous consent is not given for further holding, it go to the committee.

Mr. ROBERT C. BYRD. Well, why do we not just agree that the bill be held at the desk temporarily until tomorrow awaiting the return of the Senator from Wyoming.

Mr. ALLEN. There is no need for "temporarily" to be there.

Mr. ROBERT C. BYRD. The word "temporarily" does not do any damage.

Mr. ALLEN. I disagree with the distinguished assistant majority leader.

Mr. ROBERT C. BYRD. Not as long as the words "until tomorrow," are included.

Mr. ALLEN. Of course, we hold it over until tomorrow.

Mr. ROBERT C. BYRD. I am not particularly wedded to the word "temporarily."

Mr. President, I ask unanimous consent that H.R. 11710 be held at the desk until tomorrow, awaiting the return of the Senator from Wyoming (Mr. MCGEE).

Mr. ALLEN. At which time further request would be made.

Mr. ROBERT C. BYRD. I would like to wait until tomorrow to determine that.

The PRESIDING OFFICER. The Chair would inquire of the Senator from West Virginia if it is to be until the close of business tomorrow.

Mr. ROBERT C. BYRD. Yes.

Mr. ALLEN. If it be what?

The PRESIDING OFFICER. Be held until the close of business tomorrow.

Mr. ALLEN. Well, will there be no action until that time?

Mr. ROBERT C. BYRD. No; that will be the latest at which action could be taken.

Mr. ALLEN. But action must be taken on it tomorrow to prevent it from going to committee.

Mr. ROBERT C. BYRD. Yes; but it does not rule out action on tomorrow.

Mr. ALLEN. But some action must be taken on it during the day tomorrow or it will go to committee. Is that correct?

Mr. ROBERT C. BYRD. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. ALLEN. I have no objection to the modified request.

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

UNANIMOUS-CONSENT AGREEMENT ON CONFERENCE REPORT ON H.R. 8877, DEPARTMENTS OF LABOR, HEW, AND RELATED AGENCIES APPROPRIATIONS, 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the consideration of the conference report on H.R. 8877—appropriations for the Departments of Labor, Health, Education, and Welfare, and related agencies—debate thereon be limited to 2 hours, to be equally divided and controlled by the manager of the conference report (Mr. MAGNUSON) and the Senator from New Hampshire (Mr. COTTON);

Further, that debate on any motion or appeal relating to the conference report be limited to 20 minutes, to be equally divided and controlled by the manager of the conference report and the mover thereof;

Further, that after the adoption of the conference report, debate on any amendment reported in disagreement be limited to 10 minutes, to be equally divided and controlled by the manager of the conference report and the Senator from New Hampshire (Mr. COTTON), and that any amendment which might be offered to any one of these be limited to 10 minutes, to be equally divided and controlled by the mover of such amendment and the manager of the conference report, which amendment must be germane;

Further, that should the conference report be defeated, debate on any request for a new conference and the appointment of conferees shall be limited to one-half hour, to be equally divided and controlled by the manager of the con-

ference report and the Senator from New Hampshire (Mr. COTTON), and should any motion be made to instruct the conferees before the conferees are named, any debate on any such motion shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the conference report (Mr. MAGNUSON), and debate on any amendment to any such instructions shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the conference report.

In all cases when the manager of the conference report is in favor of a motion, or appeal or amendment, the time in opposition shall be under the control of the minority leader or his designee.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, needless to say that is a very complicated unanimous-consent request. I am advised by the staff that this has been cleared with the Senator from New Hampshire.

Mr. ROBERT C. BYRD. Yes, I am so advised.

Mr. GRIFFIN. And the Senator from New York (Mr. JAVITS).

Mr. ROBERT C. BYRD. The Senator from New York. Yes, I am so advised.

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

ORDER FOR ADJOURNMENT UNTIL 10:30 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 10:30 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF MR. KENNEDY TOMORROW AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS AND CONSIDERATION OF THE CONFERENCE REPORT ON THE HEW APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following recognition of the two leaders or their designees tomorrow under the standing order, the Senator from Massachusetts (Mr. KENNEDY) be recognized for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, not to extend beyond the hour of 11 a.m., at which time the morning business be closed and the Senate proceed to the consideration of the conference report on the HEW appropriation bill.

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

ORDER FOR SENATE TO RETURN TO CONSIDERATION OF THE ENERGY RESEARCH AND DEVELOPMENT BILL (S. 1283)

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the conference report on the HEW appropriation bill tomorrow, the Senate return to the consideration of Calendar Order No. 567, S. 1283, the energy research and development bill.

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

ORDER THAT UNFINISHED BUSINESS BE TEMPORARILY LAID ASIDE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow the unfinished business be laid aside temporarily and remain in a temporarily laid aside status until the close of business tomorrow or until the disposition of S. 1283, whichever is the earlier.

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

ORDER FOR ADJOURNMENT FROM THURSDAY TO FRIDAY AT 10 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 10 a.m. on Friday.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) will be recognized for not to exceed 15 minutes, after which morning business will ensue, not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

At the conclusion of routine morning business, the Senate will take up the conference report on the HEW appropriation bill, under a time limitation. It is anticipated that there will be at least one yea-and-nay vote, that being on the adoption of the conference report.

On the disposition of the conference report, the Senate will resume consideration of S. 1283, the energy R. & D. bill, under no time limitation, as of now. Yea-and-nay votes are anticipated on amendments, motions, et cetera.

I think that will take up most of the day tomorrow, except, I should remind our colleagues that after the House has acted on the nomination of Mr. GERALD R. FORD to be Vice President of the United States tomorrow afternoon—I would assume it would be something on the order of 4:30 or 5 o'clock p.m.—the Senate will recess and go over in a body to the House of Representatives for a joint session, and following that, the Senate will return to this Chamber, being led in a body by the new Vice President of the United States.

Mr. GRIFFIN. Mr. President, if the majority whip will yield, I am glad he added that to the program.

The PRESIDING OFFICER. May the Chair inquire whether or not the Senator from West Virginia intended that remarks within the period for the transaction of routine morning business be limited to 3 minutes?

Mr. ROBERT C. BYRD. Yes, statements therein to be limited to 3 minutes, the period itself not to extend beyond the hour of 11 o'clock a.m.

The PRESIDING OFFICER. Very well. The Senator from Michigan is recognized.

Mr. GRIFFIN. Mr. President, it is my understanding that the hope is that the vote in the House will come at about 3:30 in the afternoon and that the House will then recess. I think it is expected that the ceremony will take place about 4:30. So presumably the Senate will recess sometime before 4:30 and proceed in a body over to the other House for a joint session, and then come back.

Mr. ROBERT C. BYRD. Yes.

Mr. GRIFFIN. I expect that the joint leadership will escort the person who we hope will be the Vice President and that he will have an opportunity to address the Senate, which would be his first and only opportunity.

Mr. ROBERT C. BYRD. Yes; it would be most appropriate.

Mr. GRIFFIN. I would like to have a good turnout of Senators for that occasion.

Mr. ROBERT C. BYRD. Yes. The distinguished majority leader has asked me to state that upon the return to the Senate of the Members of this body, the new Vice President will be accorded the opportunity and courtesy to address the body over which he will be the new Presiding Officer, and then, after he speaks to the Senate, Senators may wish to respond. I am sure the distinguished majority leader and distinguished minority leader will do so—and any other Senator who wishes to do so may do so. The Senate would then go over until Friday.

Mr. President, by way of looking down the road just a little further, action will continue on the energy R. & D. bill tomorrow. I do not anticipate that action will be completed on that bill tomorrow. Hopefully, it will be, but it will more likely be Friday, perhaps.

Mr. HANSEN. Mr. President, if the distinguished acting majority leader would yield, it would be my opinion that he is quite right in presuming that action will not be completed. Insofar as this Senator knows from the number of Senators who have indicated that they propose amendments and the time we might reasonably anticipate for that purpose, I think that conclusion is warranted.

Mr. ROBERT C. BYRD. Yes. I do not anticipate a Saturday session at this moment. However, as I have stated in previous whip notices, at this juncture of the session, with a good many measures still to be acted on in this session, I do not think Saturday sessions should be ruled out, but it will depend upon circumstances at the time.

On Monday it is anticipated that, if the energy R. & D. bill has been completed on Friday or Saturday of this week, the Senate will then proceed to take up the special prosecutor legislation.

Hopefully by Tuesday the Senate could proceed to the measure dealing with Northeast and Midwest rail services.

All of this is tentative, and nothing is to be taken as final, by way of sequence, as to which measures will be called up first or when they will come up, but later on next week, if not before, it would be hoped that the Senate could take up S. 2176, a bill to provide for a national fuel and energy conservation policy, to establish an Office of Energy Conservation in the Department of the Interior, and for other purposes.

Also, there is H.R. 8449, an act to expand the national flood insurance program.

There is also the bill to establish a legal services corporation.

Next week possibly the supplemental appropriation could be taken up. That is still up ahead.

Also to be considered before adjournment sine die is the Defense appropriation bill, which came over from the other body only last Saturday, and the foreign aid appropriation bill. Of course, conference reports can be called up at any time.

Does any Senator wish the floor before I move to adjourn?

ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there is no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand adjourned until the hour of 10:30 a.m., tomorrow.

The motion was agreed to; and at 5:39 p.m. the Senate adjourned until tomorrow, Thursday, December 6, 1973, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 5, 1973:

Commission on Civil Rights

Arthur S. Flemming, of Virginia, to be a Member of the Commission on Civil Rights, vice Maurice B. Mitchell, resigned.

The Judiciary

Albert J. Engel, of Michigan, to be a U.S. circuit judge for the sixth circuit vice W. Wallace Kent, deceased.

Russell James Harvey, of Michigan, to be U.S. district judge for the Eastern District of Michigan vice Ralph M. Freeman, retired.

In the Coast Guard

The following-named officers of the Coast Guard for promotion to the grade of lieutenant commander:

Charles J. Robinson	Wade A. Johnson
Wallace S. Worthington	Edward B. Donnelly
	Patrick A. Wendt
Ronald W. Williams	John R. Huddleston
Donald C. Myers, Jr.	James T. Robertson
Arthur L. Ruedisueli	William McPherson
Robert E. Beatty	Roland H. Boughton
Robbin F. Krause	Billy H. Baldwin
Eugene K. Johnson	Edward H. Bonekemper III
William Schorr	
Raymond V. Cicirelli	Norman E. King
Ronald E. Fritz	Cullis L. Holub
Anthony J. Pettit	Larry C. Evans
Holmes M. Dillian	William S. Griswold
John T. Potts, Jr.	Gordon T. Kampert
Harry D. Hamilton	Roger G. Love
Walter N. Smith	David I. Scott
Paul D. Litts III	Frank M. Readinger, Jr.
Michael Hendrickson	
Carl T. Johnson	William P. Wolfe
Ralph F. Lutz	John S. Cameron, Jr.
Ray C. Hiner	Charles A. Thornton
John D. McCormack	Maxie M. Berry, Jr.
James V. Timmerman	Carl A. Powers
George D. Davis	Charles E. Fulcher
Malcolm R. Smith	Alan R. Hinds
James M. Loomis	Donald O. Tilton
James E. Kenney	Jewel E. Laqua
Lee F. Bellar	Jesse L. Long
Kenneth J. Hamilton	Lionel F. Crossman
David B. Simpson	Joseph E. Decosta
Everett A. Howe	James K. Easter
Carrol D. Christianson	Hugh C. Teel
Larry K. Lewark	George S. Lee
Philip Ellia	William C. Drexler
Patrick T. Denney	Stanley C. Schmelz
Ronald E. Buzhardt, Jr.	James B. Ellis II
	Gary L. Cousins
Lyle H. Dever	Gary R. Wilkins
Colon P. Butler	Charles A. Vedder

The following-named Coast Guard Reserve officers to be permanent commissioned officers in the Regular Coast Guard in the grade of lieutenant:

Michael P. Lovett	Richard D. White, Jr.
Fletcher W. Brown III	Kenneth A. Rock
Robert E. Luchun	Robert E. Maloney
Dick A. Wilson	George R. Speight, Jr.

Department of State

Francis T. Underhill, Jr., of New Jersey, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

Francis L. Dale, of Ohio, to be the representative of the United States of America to the European Office of the United Nations, with the rank of Ambassador.

CONFIRMATIONS

Executive nominations confirmed by the Senate, December 5, 1973.

Federal Metal and Nonmetallic Mine Safety Board of Review

Robert W. McVay, of Missouri, to be a member of the Federal Metal and Nonmetallic Mine Safety Board of Review for the term expiring September 15, 1968.

(The above nomination was approved subject to the nominee's commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.)

In the Public Health Service

Public Health Service nominations beginning Harry Allen, to be medical director, and ending Edwin P. Yarnell, to be a health services officer, which nominations were received by the Senate and appeared in the Congressional Record on Oct. 9, 1973.

HOUSE OF REPRESENTATIVES—*Wednesday, December 5, 1973*

The House met at 12 o'clock noon.

Rev. Jack D. Mick, Baptist Church, Dorena, Mo., offered the following prayer:

Our Father, we ask Thy blessing upon this group as they meet today. We ask Thy blessing upon our country. We know that every good and perfect gift comes down from above. Have Your way now in each of our lives. For Jesus' sake 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 had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 11324. An act to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 11324) entitled "An act to provide for daylight saving time on a year-round basis for a 2-year trial period, and to require the Federal Communications Commission to permit certain daytime broadcast stations to operate before local sunrise," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. PASTORE, Mr. MAGNUSON, Mr. STEVENSON, Mr. COTTON, and Mr. STEVENS 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. 584. An act to amend the act entitled "An act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes," approved November 5, 1966;

S. 903. An act to provide for the addition of the names of the States of Alaska and Hawaii to the list of the 48 States inscribed upon the walls of the Lincoln National Memorial;

S. 979. An act to authorize the establishment of the Springfield Armory National Historic Site, Mass., and for other purposes; and

S. 1039. An act to authorize appropriations for additional costs of land acquisition for the national park system.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

After consultation with the majority and minority leaders, and with their consent and approval, the Chair announces that on tomorrow, December 6, during the joint meeting to be held in connection with the swearing in of the Vice President, only the doors immediately opposite the Speaker and those on his left and right will be open.

No one will be allowed on the floor of the House except those persons having the privilege of the floor of the House.

REV. JACK MICK

(Mr. BURLISON of Missouri asked and was given permission to address the House for 1 minute, to revise and extend