other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE:

H.R. 12097. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 12098. A bill to amend the Natural Gas Act to secure adequate and reliable supplies of natural gas and oil at the lowest reasonable cost to the consumer, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. BELL (for himself and Mr. FRASER):

H.J. Res. 866. Joint resolution to protect whales and certain other living marine resources; to the Committee on Foreign Affairs.

By Mr. FISH:

H.J. Res. 867. Joint resolution expressing the concern of the United States about American servicemen missing in action in Vietnam; to the Committee on Foreign Affairs.

H. Con. Res. 407. Concurrent resolution expressing the sense of Congress with respect to the missing in action in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mrs. MINK:

H.R. 12099. A bill for the relief of Sylvia Dix; to the Committee on the Judiciary.

By Mr. SARASIN:

H.R. 12100. A bill for the relief of Lisa Blundon; to the Committee on the Judiciary.

H.R. 12101. A bill for the relief of Olegario Miranda DePina; to the Committee on the Judiciary.

SENATE—*Friday, December 21, 1973*

The Senate met at 8:30 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

PRAYER

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

O Thou who art Emmanuel—"God with us"—make us aware of Thy presence this moment and in our work. As Thou didst come a child to our humanity, may our hearts admit Him in His fulness. Conform our lives more and more to His life.

We pray especially for those who this day in Geneva confer for the peace of the world, that all consultations may be lifted into the higher order of Thy kingdom and that justice, righteousness, and peace may prevail in the land of the Christ-child's birth.

O God of mercy, hear us as we pray for those for whom the joy of Christmas is shadowed—the poor, the cold, the hungry, the lonely, the unloved, the sad. Let those who know Thy love respond in kindness, that having freely received, they may also freely give.

When this day is done, accompany us on our journeys. Be in our homes, in our hearts, and in our churches to renew us. Redeem the Nation and bring the rule of righteousness to all mankind.

Through Jesus Christ our Lord. Amen.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, 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. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes.

The message also 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. 11576) making supplemental appropriations 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 5, 14, 15, 24, 31, 35, 38, 50, 51, 52, 53, 54, 55, 56, 57, 58, 64, 71, 90, 91, 95, 100, 109, and 110 to the aforesaid bill and concurred therein; and that the House had receded from its disagreement to the amendments of the Senate numbered 7, 18, 21, 22, 29, 36, 43, 47, 48, 70, 74, 75, 80, 86, 94, 104, and 108 and concurred therein, each with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House had passed without amendment the bill (S. 2267) to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes.

The message further announced that the Speaker had appointed the gentleman from Michigan, Mr. DINGELL, vice Mr. Moss, excused, as a manager on the part of the House in the conference on the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, national, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (H.R. 11575) making appropriations for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. METCALF).

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, December 20, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

THE MEETING IN GENEVA ON ARAB-ISRAELI DISPUTE

Mr. MANSFIELD. Mr. President, today is a historic date in the history of this troubled year. A number of Arab States and Israel, plus the United States and the Soviet Union, are meeting in Geneva to consider the possibility of achieving a just and enduring peace. It is historic because for the first time in a generation, Arabs and Israelis are sitting down together, if not cheek by jowl, at least together and not divided by hotel corridors.

I would hope that out of this momentous gathering will come not rhetoric, but results. I would hope that the question of peace and withdrawal would be considered simultaneously and not separately. I would hope that a reasonable agreement could be reached on the question of the opening of the Suez Canal, the question of Sharm El Shiekh, the situation in the Golan Heights, the problem of the Sinai, and the matter of the holy city of Jerusalem.

It will be a time for testing, and I think that this country is extremely fortunate to have a man of the caliber and the ability of Secretary of State Henry Kissinger. He has worked with might and main to help bring the parties together to work toward a reasonable solution. To him must go great credit for the extraordinary efforts he has attempted and in which, hopefully at least in some part, he has succeeded.

So my prayers are with the conference in Geneva today and in the days and weeks to come. My hopes are for a just and durable peace which will allow Israel to maintain its entity and which will bring about a recognition on the part of the Arabs that Israel is here to stay.

Both peoples—of the same stock, incidentally—can make great contributions in the Midwest toward one another and with one another. Let us hope that this momentous meeting will achieve the desired results, so that the Middle East can take its rightful place in the affairs of the world and that the entity of Israel can be guaranteed and secured; so that peace, once again, will become a probability rather than a long-range possibility, as has been the case for too long over the past 25 or so years.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The ACTING PRESIDENT pro tempore. Does the Senator from Maryland desire recognition as acting minority leader?

Mr. MATHIAS. Mr. President, I should like to join the distinguished majority leader in his prayers for peace and in his prayers for the success of the conference in Geneva, which opens today.

His praise for the Secretary of State is proper and well deserved; but I think the praise the majority leader has given to Henry Kissinger this morning is all the more significant because of the majority leader's own long experience and his own great success in matters of foreign policy and international relations. When he speaks, he speaks with the voice of experience and knowledge, and his words are the more important.

I think it is interesting that the nations of the world gathered at Geneva today represent three of the great religions of the world—Christian, Muslim, and Jew—all of which stem from a common origin in the God of Abraham. For the God of Abraham, justice was a cardinal principle of virtue. Justice at Geneva, justice which I think the religions understand as the depth of their spiritual heritage—that justice may well bring about the peace that the majority leader has so eloquently called upon us to pray for today.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Maryland (Mr. MATHIAS) is recognized for not to exceed 15 minutes.

REFORM OF THE ELECTION PROCESS

Mr. MATHIAS. Mr. President, sessions of Congress always end with much work left undone and many jobs unfinished. That is in the nature of things and is not likely to change.

But there are some tasks that cannot be delayed and there are some times that cry for change. One of those tasks is the reform of the election process to correct the abuses rooted in money and secrecy. Congress must not go home without heeding a public outcry against failures of Government and without changing the patterns of the past.

No problem confronting our Nation today is greater than that of our steadily eroding confidence in our political system, and in ourselves. This erosion of confidence results from incontrovertible evidence that our current political campaign process corrupts our principles, our leaders, and ourselves. Reform of that system is essential to restoring confidence and self-respect, and this restoration is essential to mastering the other problems and challenges we face.

We all take the oath to support and defend the Constitution. Our constitutional processes have been under attack for the past few years. The spirit and intent of the law has been abused and in some instances the letter of the law has been violated. This is particularly so in our campaign and electoral processes.

Members of Congress must feel the weight of their responsibility for reform that bears not only upon the national legislature collectively, but upon each Member individually as elected representatives and as practicing politicians. If the Congress cannot now provide an institutional answer to election reform, there are, nonetheless, appropriate personal solutions that can be taken.

In 1973, the Senate passed a campaign reform act—the Federal Election Campaign Act Amendments of 1973. That bill contained many historic provisions which promise significant improvements in Federal election campaigns. Yet that bill now languishes in a House subcommittee.

It is dead for the 1974 campaigns. Its promises are empty.

In 1973, the Senate debated public financing of campaigns. A majority of Senators agreed that this step was necessary and proper to make our political system one in which we can all once again take pride. Yet public financing was filibustered to death on this floor. And while we have the firm promise of committee action within the Senate on public financing bills next year, we know such action cannot affect 1974 campaigns.

In 1974, we can accomplish much. In 1974, the Congress can enact public financing. In 1974, Congress can enact legislation to set ceilings on contributions and campaign expenditures. In 1974, the President can join with the Congress and the courts in seeking to insure that the abuses of the past are accounted for, and that our campaign system is modified so such abuses cannot recur. We must do all of this, even if we realize that the laws now in effect that proved so ineffective in 1972 will still be in effect in 1974.

And so, we contemplate what more we are able to do now.

Laws, as a general propositon, measure the outer perimeters of human behavior that are prohibited by society. Laws leave us freedom to choose the level of social attitudes that we will exhibit toward our fellow men. Thus the law prohibits mayhem and murder, but leaves us free to determine whether we will in fact live in love and charity with our neighbors. Thus the law exacts through taxes a minimum contribution for public welfare and defense, but leaves us free to volunteer personal work or gifts for the causes we think are also important to our community.

Why should we not then consider that the election laws, which prescribe minimum standards of conduct, should not be seen in the same light? If through opposition or inertia the general standards cannot be raised by revisions of the general law, what is to prevent those who are particularly concerned from doing more? The answer is, of course, nothing whatever except the well-trodden paths of politics that so many of us have followed with the best of motives and the highest of ideals to such shoddy destinations. I feel that I must seek a new road.

And so, I wish to tell the people of Maryland as well as the Senate some of the steps I personally plan to take in 1974.

First, I will accept no cash contributions for my campaign.

Second, I will permit no cash expenditures by my campaign organization by others on my behalf.

Third, I will solicit small contributions only.

Fourth, I shall not accept any contribution of more than $100 from any one individual.

Fifth, I will accept contributions from groups or organizations only if such contributions represents donations of $100 or less from specified individuals, or if the organization certifies that its contribution does not include more than $100 from any single individual.

Sixth, I will not accept the benefit of any donation in excess of $100 given to any group or organization and earmarked for my campaign.

Seventh, I will report every contribution—no matter how small—to the appropriate Federal and State authorities at regular intervals throughout the campaign.

Eighth, I will report every expenditure—no matter how small—to the appropriate Federal and State authorities at regular intervals throughout the campaign.

Ninth, I will establish one central campaign committee, and it will control all receipts and expenditures of my campaign.

Tenth, I shall abide by the expenditure ceilings—10 cents per voter in the primary and 15 cents per voter in the general election—which were passed by the Senate in July and now languish unattended in the House.

These are not the rules I have lived by in the past. They are different from the rules followed in 1960 when I was first elected to the Congress. They are different from 1968 when I was first elected to the Senate. Indeed, they are different from last May when many Members of the Senate honored me by their presence in Baltimore at a fundraiser pointing toward my 1974 campaign from which a balance remains. Perhaps we all should have been wiser in years past, but we cannot turn back the clock and start reform in 1960 or 1968 or even 7 months ago. What we can do is start now.

In seeking this new start and this new direction, it is necessary to make the goal clear. And that goal is not some exemplary degree of personal virtue. After all, it is our ancient prayer that the Lord should not weigh our merits, but pardon our offenses. What I am seeking is rather a new system, a new method, a new standard which will make our democracy more truly democratic. By adopting these voluntary limits it is obvious that new risks are incurred. The only way to surmount those risks is to meet the criticism raised by a public which has become distrustful of all politicians and is losing faith in all our political processes. To restore confidence in our political system and politicians will require a tremendous and vigorous effort on the part of every man and woman who supports my candidacy. But it will be a struggle that is invigorating and exciting, because it will explore new ways to fulfill old ideals.

None of the steps I have listed are currently required by Federal law. Some of them go far beyond any proposals

which we have debated and supported. But in each case, those who have advocated such steps have been told that no candidate could run a credible campaign if he abided by such rules. We have been told that we were naive and unreasonably idealistic.

In each case, I have argued to the contrary. And so today, I pledge to test out my own beliefs. I am confident that the people of Maryland can demonstrate to the Congress that campaign reform can work. It is the road I feel I should take.

Mr. MANSFIELD. Mr. President, would the distinguished Senator from Maryland yield?

Mr. MATHIAS. I am happy to yield to the majority leader.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Maryland for the guidelines which he has established for himself.

I commend him for the example which, hopefully, he will set for the rest of us, at least in the Senate. The Senate has attempted to face up to the question of campaign reform. And I think that the bill passed by the Senate was, despite its weaknesses, a noteworthy advance in that direction.

I want to compliment the Senator, especially on the fact that on more than one occasion, in fact on many occasions, he has come forth with ideas which, I think, fit in with the needs and the moods of the people. And in a second respect he has become the conscience of the Senate.

With men like Senator MATHIAS serving in this body, it makes me feel proud to be a Member of this institution.

Mr. MATHIAS. I am deeply grateful to the majority leader for his kind words. Due to his leadership, the Senate has passed some of the significant campaign reforms that have been approved here, and I only hope that others will follow his example.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. THURMOND) is to be recognized for not to exceed 15 minutes.

Mr. MANSFIELD. Mr. President, how much time is left of the time of the Senator from Maryland?

The ACTING PRESIDENT pro tempore. The time of the Senator from Maryland has expired.

Mr. MANSFIELD. Then I suggest the absence of a quorum, with the time for the quorum call to be taken out of the time of the Senator from South Carolina.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. LONG. Mr. President, I ask unanimous consent that Lynn Sutcliffe, Robert Joost, Paul Cunningham, Arthur Pankopf, Jr., Malcolm Sterrett, David Clanton, and John Kirtland, of the Commerce Committee staff, may have the privilege of the floor during the consideration of the conference report on the Regional Rail Reorganization Act of 1973, H.R. 9142.

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

Mr. JAVITS. Mr. President, I make the same request for Charles Warren and Gary Klein of my staff.

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

Mr. LONG. 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.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, in view of the fact that the time of the Senator from Virginia (Mr. HARRY F. BYRD, JR.) has almost expired, I ask unanimous consent that the remainder of his time be vitiated at this time; and I can assure the distinguished Senator from Virginia that he will have no trouble getting 15 minutes later in the day.

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

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 10 minutes, with statements therein limited to 2 minutes.

Is there morning business?

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 (Mr. HARRY F. BYRD, JR.). Without objection, it is so ordered.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on December 20, 1973, he presented to the President of the United States the following enrolled bills:

S. 14. An act to amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations and for other purposes;

S. 2166. An act to authorize the disposal of opium from the national stockpile;

S. 2316. An act to authorize the disposal of copper from the national stockpile and the supplemental stockpile; and

S. 2794. An act to amend chapter 36 of title 38 United States Code, to authorize the Administrator of Veterans' Affairs to continue making educational assistance and subsistence allowance payments to eligible veterans and eligible persons during periods that the educational institutions in which they are enrolled are temporarily closed pursuant to a policy proclaimed by the President or because of emergency conditions.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. JAVITS (for himself, Mr. HUGHES, Mr. WILLIAMS, and Mr. CRANSTON):

S. 2848. A bill to extend and improve the Drug Abuse Education Act of 1970. Referred to the Committee on Labor and Public Welfare.

By Mr. INOUYE (for himself, Mr. CRANSTON, Mr. MANSFIELD, and Mr. METCALF):

S. 2849. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least 10 years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

By Mr. NUNN (for himself and Mr. TALMADGE):

S. 2850. A bill to authorize the Secretary of the Interior to assist in the commemoration of the Revolutionary War battle fought at Savannah, Ga., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. COOK:

S. 2851. A bill relating to the Pioneer Weapons Hunting Area in the Daniel Boone National Forest, Kentucky. Referred to the Committee on Agriculture and Forestry.

By Mr. STEVENSON (for himself, Mr. MAGNUSON, Mr. BIBLE, Mr. GRAVEL, Mr. HUGH SCOTT, Mr. ABOUREZK, Mr. BIDEN, Mr. HARTKE, Mr. HUMPHREY, Mr. HART, Mr. JACKSON, Mr. ROTH, Mr. COOK, Mr. STEVENS, Mr. MANSFIELD, Mr. MCINTYRE, Mr. MCGOVERN, Mr. NELSON, Mr. HUDDLESTON, Mr. TUNNEY, Mr. CLARK, and Mr. CRANSTON):

S. 2852. A bill to preserve local air service. Referred to the Committee on Commerce.

By Mr. HUGHES:

S. 2853. A bill to provide for the relief of Lt. (junior grade) Charles W. Baker, Medical Service Corps, U.S. Navy. Referred to the Committee on Armed Services.

By Mr. CRANSTON (for himself, Mr. JAVITS, and Mr. WILLIAMS):

S. 2854. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis. Referred to the Committee on Labor and Public Welfare.

By Mr. ABOUREZK:

S. 2855. A bill for the relief of Mahmond Abdullah Naji; and

S. 2856. A bill for the relief of Maurice Y. Murad. Referred to the Committee on the Judiciary.

By Mr. JOHNSTON (by request):

S. 2857. A bill to amend the public assistance provisions of the Social Security Act to provide that benefits thereunder (including supplemental security income benefits) shall be made available and financed in the case of Guam and the Virgin Islands on the same

basis as in the case of other States. Referred to the Committee on Finance.

By Mr. TUNNEY:

S. 2858. A bill to amend the Outer Continental Shelf Lands Act for the purpose of increasing the safety of offshore drilling and production. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (by request):

S. 2859. A bill for the relief of Marian Law Shale Holloway. Referred to the Committee on Interior and Insular Affairs.

By Mr. MAGNUSON (for himself, Mr. PELL, and Mr. HOLLINGS):

S.J. Res. 184. A joint resolution to protect whales and certain other living marine resources. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JAVITS (for himself, Mr. HUGHES, Mr. WILLIAMS, Mr. CRANSTON, and Mr. DOMINICK):

S. 2848. A bill to extend and improve the Drug Abuse Education Act of 1970. Referred to the Committee on Labor and Public Welfare.

ALCOHOL AND DRUG ABUSE EDUCATION ACT AMENDMENTS OF 1974

Mr. JAVITS. Mr. President, drug abuse in our country has been increasing. We can no longer tolerate the continuation of what is basically a one dimensional response to a three dimensional problem.

We must continue to focus fiscal and human resources on clinically oriented programs such as methadone maintenance and therapeutic communities to combat heroin addiction. However, in the face of changing patterns of drug abuse, we are no longer justified in expending drug program resources in this singular area of heroin addiction.

We are seeing now, in this country, the development of a frightening pattern of poly-drug use. Young people, even at the junior and senior high school levels, are taking drugs in combination—amphetamines, barbituates, tranquilizers and others, frequently mixed with alcohol.

While we do need to develop some clinical treatment models for youngsters so deeply enmeshed in poly-drug use as to be rendered nonfunctional, we should not fail to heed the major lesson to be learned from our experience in dealing with the drug abuse problem over the past few years:

The drug abuse problem cannot be solved by our simply dealing with its ultimate manifestation in the individual, that is addiction or crippling poly-drug use. The abuse of any substance is complex human behavior which is influenced by many forces: School, family, church, community, media peer group pressure. We must undertake the development of educational program models that utilize the resources of all of these in order to affect drug taking behavior before it reaches the final stage; one where already overburdened and often still uncertain health professionals must be called upon again for a solution.

We must undertake early intervention and primary prevention activities, aimed at helping experimenters and users out of the "taken" category before taking becomes "abusing." And at helping the troubled youngster who, even though a nonuser, may be headed for trouble with drugs because of their abundance and easy accessibility, because of peer pressure to conform, to join, to belong, and because of the more general but equally strong overall pressure in our society to opt for the chemical solution to life's problems.

The community at large, and the schools particularly, are in the best position to focus on the causes of drug abuse rather than the symptoms, to reflect their own specialized needs, and to plan and develop responsive early intervention and prevention programing.

Criticisms of so-called drug education efforts have been leveled at programs which have focused for the most part on providing massive amounts of information, very often to bored or hostile audiences. Such criticism is well directed—but not because education does not work. Rather because information is not education.

Drug education should be a total process of interaction between individuals which emphasizes the effective as well as the cognitive approach; a process in which drug information is utilized as a nutritive ingredient for the mutualistic growth of teacher and student alike, to the end of involving the student in intellectual, cultural, and social alternatives to drug use.

That such programs can be run successfully has been demonstrated by several school team approaches now being utilized around the country. Not the least of these is one from my own State, the Spark program in New York City. Interestingly, its success is due in large measure to its meaningful use of students themselves as "teachers" in the overall educational process.

The U.S. Office of Education has been training community teams to develop intervention and prevention responses; it has provided special training workshops for teacher training institutions. It is trying to relate responsibility to a far broader approach to "the drug problem" than is manifested by a simplistic focus upon the individual already addicted to hard drugs.

We must relate to this broader approach as well. We need a drug education bill not because we have proved scientifically that drug education works; but rather because we hope that given adequate time and support it can. And because given the scope of our drug problem and the lessons of experience, we know it must.

To accomplish that goal I am introducing with Senators HUGHES, WILLIAMS and DOMINICK the "Alcohol and Drug Abuse Education Act," which provides as follows:

First—$90 million over 3 years is authorized for the Secretary to make grants and contracts with, institutions of higher education, State and local educational agencies, and public and private education or community agencies, institutions, and organizations to support and evaluate demonstration projects and to disseminate these nationally, to train educational and community personnel that have or should have an important influence on the behavior of young people and to provide technical assistance in program development.

Second. Authorizes such funds to be available for activities such as——

Comprehensive demonstration programs in school-communities which focus on the causes of drug and alcohol abuse rather than the symptoms; which emphasize the effective as well as the cognitive approach; which reflect the specialized needs of local communities and which involve, in planning and development, school personnel, the target population, community representation and parents;

Creative primary prevention and early intervention programs in schools utilizing an interdisciplinary "school team approach" to prepare educational personnel together with students better to respond to the drug and alcohol problems in the schools by developing in them skills in planning comprehensive school drug abuse prevention programs to include such activities as peer group and individual counseling, group leadership training, rap groups, training of drug and alcohol education specialists, student involvement in intellectual, cultural, and social alternatives to drug and alcohol use;

Grants to State educational departments to support specific projects for—inservice training of educational personnel—technical assistance to local school districts—creative leadership in programing for indigenous minorities—training of peer counselors;

Evaluations of the effectiveness of such programs;

Preservice and inservice training programs on drug and alcohol abuse prevention for teachers, counselors and other educational personnel, law enforcement officials and other public service and community leaders and personnel;

Training of educational personnel in the selection and use of support materials in drug and alcohol abuse prevention;

Community education programs on drug and alcohol abuse especially for parents and others, as appropriate, in the community;

Evaluations of such training and community education programs including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs and the evaluation of materials used in such programs;

Programs or projects to recruit, train, organize and employ professionals and other persons including former drug and alcohol abusers or drug and alcohol dependent persons to organize and participate in programs of public education in drug and alcohol abuse; and

Projects for the dissemination of valid and effective school-community drug and alcohol abuse education programs.

The bill is distinguished from the recent House-passed bill—except that it retains the same total 3-year authorization of $90 million and specifically includes alcoholism within drug abuse—as follows:

The title of the bill is amended to read "Alcohol and Drug Abuse Education Act"

to reflect the focus of the inclusion of support for alcohol abuse and alcohol dependency within drug abuse.

In lieu of the $100,000 grants to each State Education Department and the funding priority provisions single grant authority is provided for educational entities and community programs. It includes authority to make grants to State Education Departments to support specific proposals, and other enumerated programs eligible for funding support to achieve the desired goals as set forth in sections 3 (a) and (b) of the bill.

The purpose clause of the Act is amended to conform to the grant authorities established by the bill.

I am concerned that drug abuse education has been professionally, politically and economically exploited and could be more so by the $100,000 grants to each State.

There have been numerous criticisms of prior drug abuse education activities, for example, the Department has identified States where all of the funds are channeled to individual communities to carry out programs with little direction or monitoring of results, and no technical assistance and no evaluation. In one instance the bulk of the funds has gone to support one big workshop for educational personnel during the summer with no subsequent follow-up. Some States are still plying the traditional cognitive approach to drug education with predictable results. In one instance a good portion of funds was spent on a TV series which was abandoned after production. Traditional workshops are still a basic part of some States' programs. There tend to be instances of political in-fighting and red-tape which can jeopardize funding effectiveness. A number have reported significant unspent funds at the end of a project year. Also, there is a need for well-trained leadership at the State as well as at the local level.

The bill I introduced today with Senators HUGHES, WILLIAMS, and DOMINICK will provide the opportunity to avoid such problems by focusing limited resources where they can be most effective.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

Also, I ask unanimous consent that a recent evaluation of the New York Spark drug education program, which in great measure contributed to the development for the criteria of this bill, be printed in the RECORD.

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

S. 2848

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 "Alcohol and Drug Abuse Education Act Amendments of 1974".

SEC. 2. (a) Section 1 of the Drug Abuse Education Act of 1970 (21 U.S.C. 1001) is amended to read as follows: "This Act may be cited as the 'Alcohol and Drug Abuse Education Act'."

(b) Section 2 of such Act is amended to read as follows:

"SEC. 2. (a) The Congress hereby finds and declares that drug and alcohol abuse diminishes the strength and vitality of the people of our Nation; that an increasing number of substances, both legal and illegal, are being abused by increasing numbers of individuals; that abuse of any substance is complex human behavior which is influenced by many forces—school, family, church, community, media, peer groups; and that prevention and early intervention require cooperation and coordination of all of these in strategies designed to respond to carefully defined problems.

"(b) It is the purpose of this Act to provide leadership to schools and other institutions in the community by supporting projects to identify, evaluate, demonstrate and disseminate effective drug and alcohol abuse prevention and early intervention strategies and to provide training and technical assistance to schools and other segments of the community in adapting such strategies to identified local needs."

(c) Section 3 of such Act is amended to read as follows:

"SEC. 3. (a) The Secretary shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and public and private education or community agencies, institutions and organizations to support and evaluate demonstration projects and to disseminate these nationally, to train educational and community personnel that have or should have an important influence on the behavior of young people and to provide technical assistance in program development.

"(b) Funds appropriated for grants and contracts under this Act shall be available for such activities as—

"(1) comprehensive demonstration programs in school-communities which focus on the causes of drug and alcohol abuse rather than the symptoms; which emphasize the affective as well as the cognitive approach; which reflect the specialized needs of local communities and which involve, in planning and development, school personnel, the target population, community representation and parents;

"(2) creative primary prevention and early intervention programs in schools utilizing an interdisciplinary 'school team approach' to prepare educational personnel together with students better to respond to the drug and alcohol problems in the schools by developing in them skills in planning comprehensive school drug and alcohol abuse prevention programs to include such activities as peer group and individual counseling, group leadership training, rap groups, training of drug and alcohol education specialists, student involvement in intellectual, cultural and social alternatives to drug and alcohol use;

"(3) grants to State Education Departments to support specific projects for—

(A) inservice training of educational personnel,

(B) technical assistance to local school districts,

(C) creative leadership in programming for indigenous minorities, and

(D) training of peer counselors;

"(4) evaluations of the effectiveness of programs described in paragraphs (1), (2), and (3);

"(5) preservice and inservice training programs on drug and alcohol abuse prevention for teachers, counselors and other educational personnel, law enforcement officials and other public service and community leaders and personnel;

"(6) training of educational personnel in the selection and use of support materials in drug and alcohol abuse prevention;

"(7) community education programs on drug and alcohol abuse, especially for parents and others (as appropriate) in the community;

"(8) evaluations of the training and community education programs described in paragraphs (5) and (7), including the examination of the intended and actual impact of such programs, the identification of strengths and weaknesses in such programs and the evaluation of materials used in such programs;

"(9) programs or projects to recruit, train, organize and employ professionals and other persons, including former drug and alcohol abusers or drug and alcohol dependent persons to organize and participate in programs of public education in drug and alcohol abuse; and

"(10) projects for the dissemination of valid and effective school-community drug and alcohol abuse education programs.

"(c) There are authorized to be appropriated to carry out the purposes of this section $26,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $34,000,000 for the fiscal year ending June 30, 1976."

SEC. 3. The Drug Abuse Education Act of 1970 is further amended by striking out "drug abuse" each time it appears in section 5 and inserting in lieu thereof "drug and alcohol abuse".

PRELIMINARY REPORT—PHASE I OF SPARK PROGRAM ANALYSIS

(By Eugene P. Visco)

FOREWORD

Even at this early stage, it is important to recognize and acknowledge the participation of others without whose assistance this work would not be underway. First and foremost are key personnel at the New York City Board of Education: Arthur Jaffe, Director, SPARK Program, and Kathy Quaranta, Director of Training, SPARK Program. The teams at the schools, who remain anonymous because of the anonymity of their schools, gathered the data under painful and time-consuming circumstances.

The study is under the overall direction of Leon S. Pocinki, Director of Operations, GEOMET. Isadore Enger provides guidance on statistical matters. Computer programming and data management at GEOMET is the responsibility of Michel B. Rodante.

The Government Project Officer, overseeing the total study on behalf of SAODAP, is Bernard R. McColgan.

SECTION 1.0—INTRODUCTION

Background

This is the first report on the analysis of data representing the performance of the SPARK (School Prevention of Addiction through Rehabilitation and Knowledge) drug abuse program. The analysis is being carried out under the Basic Ordering Agreement 73–2 between the Special Action Office for Drug Abuse Prevention and GEOMET, Incorporated.

The New York City SPARK Program is: "The Nation's largest school-based program (approaching) addiction education and prevention through group and individual counseling, training of a peer leadership cadre, home visits, parent workshops, parent/child group sessions, community involvement, curriculum development, and in-service training for teachers."

Four major program goals have been established:

"Establishing a setting within each school where young people can go to learn to like themselves and cope with one another;

"Helping students to make decisions, solve problems, and in the process, to grow;

"Providing young people intellectual, social, cultural and recreational alternative to drug abuse; and

"Improving communication with the existing services within each school."

The program is operated by the New York City Board of Education within the school system. Doctrine, guidance and staff recruitment, training, and assignment, as well as overall coordination is the responsibility of the SPARK Program Management group, an element of the Board of Education. The direct on-the-scenes activity of the program,

in the 94 high schools making up the New York City secondary school system is the responsibility of the individual high school principals. The SPARK teams located in the schools are members of the individual school faculty and are supervised by the principal.

Three different types of SPARK teams are represented in the school system. They are:

One Drug Education Specialist (DES) at each of 45 schools;

One DES and one Instructor/Addiction at each of 40 schools; and

One DES, two Instructors/Addiction, and three additional professionals (usually including a psychologist, guidance counselors, or attendance teachers) at each of the remaining nine schools.

The last type of team configuration is responsible for the operation of an intervention and prevention center.

The program got underway about 1970. A full description of its development, organization, and operations will be included in a subsequent report. It is sufficient to state here that a brief analysis carried out early this year under the auspices of the New York Addiction Services Agency (ASA), the general delegate agency for drug abuse funds, indicated striking changes in behavior among the students who participated in the SPARK program. A major limitation of that analysis was that it sampled only SPARK enrollees and did not include observations of behavior among students who were not associated with SPARK. The analysis included SPARK involvement data for only the first semester of the 1972–1973 school year, compared with "baseline" data on the same students for a comparable semester (the previous year) before they became involved in the SPARK program.

To augment the observations of the ASA-sponsored analysis and to probe somewhat deeper into the performance of the SPARK program, SAODAP asked GEOMET to carry out "an evaluation of the SPARK high school drug abuse program in New York City in terms of changes in the functional behavior of students in an experimental group, as compared with a control group."

Technical approach

The basic approach is to compare the behavior of students in the SPARK program with students not in the SPARK program. Behavior is represented by four parameters: referrals for drug-related activity, instances of misbehavior (referred to as "acting-out behavior"), truancy, and classroom grades. Samples of students have been drawn from three of the nine schools that have intervention and prevention centers. The objective sample distribution is 100 SPARK students per school for a total sample size of 300 "experimental" subjects and 100 non-SPARK students per school for a total of 300 "control" subjects. The control samples are to be matched or "paired" with the experimental samples. The matching will be done in terms of the four behavior variables plus sex (gender) on the basis of data representing the students during the period September 1971 to June 1972 (before the SPARK population enrollment).

The students are selected from the populations who were in the 9th and 10th grades during the baseline period; thus, they are in the 11th and 12th grades as of the beginning of the present school year. The matching will be done by computing the distributions of the various variables for the experimental group for the period prior to the group's entry into the program. Control samples will be selected on the basis of one-for-one pairing in terms of the same behavior characteristics for the same time period. In order to facilitate the data collection effort (carried out by members of the SPARK intervention and prevention center teams at the three schools), the same baseline period and first "treatment" period data were drawn for the experimental sample (100 students) and the larger control sample at the same time. The first "treatment" period is the period September 1972 to June 1973, or the first year of SPARK involvement for the experimental group.

Comparisons will be carried out covering the present school year (September 1973 to June 1974); plans also call for an interim data point at the end of the first semester (January 1974).

The behavior variables specifically represents:

The number of referrals for drug-related behavior from a wide range of sources including school security guards, professional staff members, family, and other students;

The number of reported instances of misbehavior including fighting, abusive oral language, and stealing;

The total number of absences, unexcused absences, class cuttings, and tardiness events; and

Grades on at least the five basic courses generally required.

Since the data to be used are as filed in the various schools and some variations in data recording systems is expected, the analysis will be adjusted to make maximum use of the data in their original form.

SECTION 2.0—STATUS AS OF 31 OCTOBER 1973

Three basic sets of data have been drawn, using random procedures, by the SPARK school staffs and are being processed at GEOMET. The data generally consist of the following information:

A student identification number (so the longitudinal data can be correctly drawn in the future);

Indication of the sample category (experimental or control);

The student's sex;

Whether or not the student is presently enrolled (for the data now in hand, all are still enrolled); and

The number of referrals for drug-related behavior from police, security guard, professional staff, self, family, other students, emergency room, and other medical facility.

The number of events of acting-out behavior, categorized as fighting with other students; fighting with staff, abusive oral language, disruption classroom activities; inappropriate conduct in lunch or recreational areas, damaging school property, stealing from school, other students, or faculty, setting fires, and setting false alarms.

The number of events associated with truant behavior as represented by total absences, classes cut, and tardiness.

Final grade on six courses.

Data were not available on all elements at all schools. For example, there appear to be no (or very few) instances of "setting fires" or "false alarms." Similarly, information on unexcused absences is not filed at some schools. The composition of the samples is indicated in Table 1 below:

TABLE 1.—SAMPLE SIZE AND COMPOSITION

Group	School 1		School 2		School 3	
	Male	Female	Male	Female	Male	Female
Experimental	42	58	54	46	30	70
Control	111	90	81	75	60	140

As of this report, the data are in computer accessible form. The matching process, a somewhat tedious task, is underway. Initial frequency distributions have been computed for all the groups for Schools 1 and 2; the data for School 3 (slightly delayed) has only recently been prepared for entry into the computer and the distributions are not yet available. The preliminary results are presented in the next section.

SECTION 3.0—PRELIMINARY RESULTS: TWO SCHOOLS

This section presents the tentative results obtained by analysis of the available data for two schools.

The results of principal concern are those that indicate the change in the experimental group over time. In interpreting these results it is important to recognize that the control population has not yet been matched. Thus, on the basis of the statistics computed from the entire population, results are only preliminary. It may be expected that the differences between the experimental and control groups for the first "treatment" period (September 1972 to June 1973) will change, given that the two groups are about the same (matched) for the baseline period. Tables 2 through 5 summarize the observations and display the summary data by school, by time period, and by sample group.

TABLE 2.—AVERAGE NUMBER OF REFERRALS FOR DRUG-RELATED BEHAVIOR (ALL SOURCES)

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	3.88	2.83	3.31	1.33
Control	1.31	1.86	1.79	4.91

TABLE 3.—AVERAGE NUMBER OF MISBEHAVIOR EVENTS (ALL TYPES OF ACTING-OUT BEHAVIOR)

Group	School 1		School 2[1]	
	1971–72	1972–73	1971 72	1972–73
Experimental	12.84	6.06	14.28	3.89
Control	4.05	7.68	7.11	15.13

[1] Includes suspensions; data not available for School 1.

TABLE 4.—AVERAGE NUMBER OF TOTAL ABSENCES

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	21.15	19.16	17.87	12.06
Control	23.96	33.52	28.24	33.90

TABLE 5.—AVERAGE GRADES (5 COURSES)

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	64.18	69.32	60.86	70.29
Control	60.46	48.48	52.38	40.73

The preliminary data indicate that the number of referrals for drug related activity for members of the experimental group (in the SPARK Program) decreased, while the number of referrals for members of the control group (not in the SPARK Program) increased from the baseline period to the 1972–73 period. The same is essentially true for the number of absences. In the case of average grades, the grades for the members of experimental group were higher during the period they were in the Program than before, while the grades for the control group members dropped during the same period.

Although there are many factors that may influence the results presented here, we can tentatively conclude that there is an association between participation in the SPARK Program and improvement in the attributes of socially desirable behavior. In turn this result may mean that there is some "treatment" to which the SPARK-enrolled students are exposed that affects their behavior in a positive or "good" manner. Correspondingly, there is some influence or treatment to which the non-SPARK students are exposed that has the opposite effect. The data indicate these observations without exception.

Such consistency is quite rare in analyses of the present type.

The basic data compiled consists of the mean scores for each of the subvariables, defined in Section 2.0. Table 6 presents all the means for the two periods (September 1971 to June 1972 and September 1972 to June 1973) for the experimental group at School 1; Table 7 presents the same data for the control population at School 1. Tables 8 and 9 present the comparable data, respectively, for School 2.

TABLE 6.—MEAN SUBVARIABLE SCORES, SCHOOL 1, EXPERIMENTAL GROUP, SEPTEMBER 1971 TO JUNE 1972 AND SEPTEMBER 1972 TO JUNE 1973

Variable and subvariable	Average number of events or mean grade 1971–72	1972–73
Drug referrals:		
Police	0	0
Security guard	.85	.40
Professional staff	2.16	1.08
Self	.16	.80
Family	.30	.34
Other students	.34	.17
Emergency room	.06	.03
Medical facility	.01	.01
Acting-out behavior:		
Fighting with other students	1.33	.58
Fighting with faculty	.43	.15
Abusive language	3.38	1.83
Disrupting classrooms	4.67	1.97
Bad conduct in lunchrooms	2.92	1.53
Damaging school property	.07	0
Stealing	.04	0
Setting fires	0	0
False alarms	0	0
Absences:		
Total	21.15	19.16
Unexcused	10.40	5.22
Class cutting	11.14	4.96
Tardiness	5.69	4.30
Grades:		
Course 1	67.55	71.39
Course 2	67.30	65.99
Course 3	61.50	67.14
Course 4	63.10	69.99
Course 5	61.46	72.10

TABLE 7.—MEAN SUBVARIABLE SCORES, SCHOOL 1, CONTROL POPULATION SEPTEMBER 1971 TO JUNE 1972 AND SEPTEMBER 1972 TO JUNE 1973

Variable and subvariable	Average number of events or mean grade 1971–72	1972–73
Drug referrals:		
Police	0	0
Security guard	.26	.50
Professional staff	.92	1.23
Self	0	0
Family	0	.01
Other students	.02	.02
Emergency room	.12	.10
Medical facility	0	0
Acting-out behavior:		
Fighting with other students	.43	.75
Fighting with faculty	.09	.19
Abusive language	.88	1.78
Disrupting classrooms	1.41	1.95
Bad conduct in lunchrooms	1.24	2.73
Damaging school property	0	.26
Stealing	0	.02
Setting fires	0	0
False alarms	0	0
Absences:		
Total	23.96	33.52
Unexcused	6.38	14.83
Class cutting	11.24	23.44
Tardiness	6.12	4.52
Grades:		
Course 1	62.14	49.65
Course 2	62.66	48.54
Course 3	57.79	46.94
Course 4	58.14	47.94
Course 5	[1] 61.59	[2] 49.31

[1] Only 190 students took this course; mean computed on this number.
[2] Only 193 students took this course; mean computed on this number.

TABLE 8.—MEAN SCORES, ALL SUBVARIABLES, SCHOOL 2 EXPERIMENTAL GROUP, SEPTEMBER 1971 TO JUNE 1972 AND SEPTEMBER 1972 TO JUNE 1973

Variable and subvariable	Average number of events or mean grade 1971–72	1972–73
Drug referrals:		
Police	0.50	0
Security guard	.48	.08
Professional staff	1.45	.25
Self	.41	.68
Family	.08	.09
Other students	.80	.22
Emergency room	.04	.01
Medical facility	0	0
Acting-out behavior:		
Fighting with other students	2.24	.46
Fighting w th faculty	.73	.19
Abusive language	3.97	1.51
Disrupting classrooms	1.95	.33
Bad conduct in lunchrooms	5.14	1.36
Damaging school property	.12	.01
Stealing	0	.01
Setting fires	0	0
False alarms	0	0
Suspensions	.13	.02
Absences:		
Total	17.87	12.06
Unexcused	(1)	(1)
Class cutting	(1)	(1)
Tardiness	8.18	3.73
Grades:		
Course 1	60.80	66.40
Course 2	64.60	68.70
Course 3	58.30	67.20
Course 4	62.10	70.55
Course 5	[2] 58.52	78.60

[1] No data.
[2] Only 99 students took this course; mean computed on this number.

TABLE 9.—MEAN SCORES, ALL SUBVARIABLES, SCHOOL 2, CONTROL POPULATION, SEPTEMBER 1971 TO JUNE 1972 AND SEPTEMBER 1972 TO JUNE 1973

Variable and subvariable	Average number of events or mean grade 1971–72	1972–73
Drug referrals:		
Police	0.03	0.08
Security guard	.22	.62
Professional staff	1.28	2.94
Self	.03	.26
Family	.04	.14
Other students	.19	.85
Emergency room	0	.01
Medical facility	0	
Acting-out behavior:		
Fighting with other student	1.16	2.69
Fighting with faculty	.22	.67
Abusive language	2.48	5.41
Disrupting classrooms	.92	1.98
Bad conduct in lunchrooms	2.15	4.11
Damaging school property	.08	.15
Stealing	.01	.01
Setting fires	0	.01
False alarms	.01	0
Suspensions	.08	.10
Absences:		
Total	28.42	33.90
Unexcused	(1)	(1)
Class cutting	(1)	(1)
Tardiness	11.54	4.52
Grades:		
Course 1	52.69	39.90
Course 2	51.83	41.06
Course 3	46.86	41.22
Course 4	57.24	38.88
Course 5	53.28	42.59

[1] No data.

By Mr. INOUYE (for himself, Mr. CRANSTON, Mr. MANSFIELD, and Mr. METCALF):

S. 2849. A bill to amend the Social Security Act to provide that certain persons, who have innocently entered into a legally defective marriage to an insured individual and have lived with such individual as his husband or wife for at least 10 years, shall be treated, for benefit purposes, as if such marriage had been legally valid. Referred to the Committee on Finance.

Mr. INOUYE. Mr. President, today I am introducing a bill to amend the Social Security Act to provide that an individual who has innocently entered into a legally defective marriage to an insured individual, and who has lived with such individual as husband or wife for at least 10 years, shall be treated, for purposes of qualifying for benefits, as if such marriage had been legally valid.

This legislation was prompted by a problem which faces a constituent of mine. Mrs. X had lived with her husband for over 25 years, and then found that she was ineligible for social security benefits even though all agree that she had acted in good faith. To quote Acting Commissioner Hess, of the Social Security Administration:

> I would like to say at the outset that Mrs. X's case merits sympathy. . . . It would appear that she may have been grossly deceived in 1943, and was, in consequence, inveigled into an invalid marriage by deliberate misrepresentation. . . . Since it was determined in February, 1969, that Y is the legal wife of X, only she could be paid wife's benefits for months thereafter.

Thus, after living with her husband for over 25 years, Mrs. X found herself ineligible for social security benefits because she was not legally married.

Mr. President, in reviewing this bill, you will note that both wives will be treated as if their marriages were, in fact, valid. Accordingly, benefits paid to one would not affect the eligibility status or extent of coverage which the other is entitled to receive. Further, a clause is included which would penalize the individual responsible for this deception by reducing his old-age benefit by an amount equal to that paid to his "second" wife.

Mr. President, I hope you will recognize the need which is felt by those who would benefit by this legislation, and will assist in its speedy passage.

By Mr. COOK:

S. 2851. A bill relating to the Pioneer Weapons Hunting Area in the Daniel Boone National Forest, Ky. Referred to the Committee on Agriculture and Forestry.

Mr. COOK. Mr. President, on Monday, December 17, I withdrew the language of my amendment to S. 1983—the Endangered Species Act of 1973—so as to not jeopardize final passage of the conference report which we acted on Wednesday night.

The point of the amendment I submitted to S. 1983 was to preserve Kentucky's Pioneer Weapons Hunting Area in the Daniel Boone National Forest of eastern Kentucky while, at the same time, providing access to a recreation area at Cave Run Lake which will soon be Kentucky's fourth largest manmade lake.

The conference report on S. 1983, by my agreement with the House conferees at the Monday meeting states:

In light of the considerable controversy on the subject, the conferees felt that this issue ought not to be resolved by inclusion of this section in the bill, but that it would be more appropriate for full hearings to be held on the question by the proper committees of Congress. Accordingly the section was stricken from the bill with the understanding and hope that such hearings might be expeditiously completed.

As the first step in facilitating action on this agreement to hold hearings in both the Senate and House. I am sending to the desk, legislation stating that, notwithstanding any other provision of law, no department, agency, or other instrumentality of the United States shall take any action involving the construction, upon or through any of the approximately 7,300 acres of land comprising the Pioneer Weapons Hunting Area in the Daniel Boone National Forest, Ky., of an access road to the Zilpo Recreation area. In addition, the bill contains an exception stating that nothing in the bill shall be construed as precluding the construction of a Zilpo Recreation Site access road generally on a route extending northward from forest development road No. 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area. I ask that this bill be appropriately referred and printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. COOK. Mr. President, this matter of locating the Zilpo access road has been a subject of great concern to a large number of Kentuckians because the Pioneer Weapons Hunting Area, opened in July of 1962, was the first of its kind in the Nation and the focal point of attention for interested fish and game personnel from other States, departments, and Federal agencies.

I would like to submit for the RECORD an article from the November 1966 issue of Field and Stream magazine which accelerated the Pioneer Weapons Hunting Area into national prominence and explains in detail the area of interest. I ask that it appear at this point in my remarks and be labeled exhibit 1.

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

EXHIBIT 1

[From the Field and Stream magazine, November 1966]

KENTUCKY'S HAPPIEST HUNTING GROUND

(By Jim Hayes)

The sound of a shot from an oldtime muzzle-loading shotgun is distinctly different from that of a modern gun firing smokeless powder. Whereas the modern shotgun has a flat, slamming report, the black-powder scattergun touches off with a resonant, rolling *ka-booooooom*.

I'm accustomed to hunting with a 12-gauge Remington, so the difference was immediately apparent to me when the first grouse thundered out of a windfall and two of my hunting companions blazed away with their muzzle loaders. After the clouds of blue smoke lifted, we moved ahead and found the bird in the dry leaves.

We were hunting with muzzle loaders, not to give the grouse a better chance, which they hardly needed, but because they were our tickets to one of America's most unusual public hunting grounds, the Primitive Weapons Area of the Cumberland National Forest in northeastern Kentucky.

A cooperative development of the U.S. Forest Service and the Kentucky Department of Fish and Wildlife Resources, this 7,300-acre tract of forest land has been set aside for sportsmen who'd like the chance to hunt an abundance of game with the same weapons and under the same wilderness conditions that existed more than a century ago. The only weapons permitted here are longbows, crossbows, and muzzle-loading rifles and shotguns. The Primitive Weapons Area, which opened in July 1962, has been attracting hunters in increasing numbers ever since.

My hunting partners were Bill Zeedyk, John Nunan, and Bobby Durbin, all of Winchester, Kentucky. Bill is the U.S. Forest Service's wildlife staff officer assigned to the Cumberland National Forest and a dedicated career conservationist. Bobby and John are muzzle-loader enthusiasts. A month earlier, on November 10, the opening of deer season, Bobby had bagged a four-point, 125-pound buck on the Primitive Weapons Area. Hunting near a waterhole on the Tater Knob slope, he dropped it from 50 yards with one shot from his .43-caliber long rifle.

Although I had never hunted with a muzzle loader, I'd always been fascinated with the idea. When I heard of Kentucky's Primitive Weapons Area, I wrote to Bob Collins, Forest Service supervisor of the Cumberland National Forest, and asked to join in a hunt. Bill Zeedyk was assigned to organize the hunt, and we agreed on a date—Saturday, December 4, 1965. The day before, I drove from my home north of Pittsburgh and checked into a motel in Winchester. At 6 the next morning Bill and his friends routed me out for the forty-five-minute drive to the Cumberland National Forest.

The Cumberland National Forest lies between the Blue Grass country and the mountains of eastern Kentucky. Comprising 461,000 acres of the western foothills of the Allegheny Mountains, it extends 150 miles northeast from Tennessee to a point north of Morehead, Kentucky. The 7,300-acre Primitive Weapons Area, in Bath and Menifee Counties, is in the northern part of the forest, 15 miles southwest of Morehead. The best jumping off place is the crossroads village of Salt Lick. Virgil Caudill's gas station, at the junction of Routes 60 and 211, is a gathering place for many muzzle-loader hunters.

Terrain in this Primitive Weapons Area is really rugged. Geologically, the area is situated on an ancient plateau which was uplifted and later eroded, leaving an irregular mazework of razorback ridges, rounded knolls, and conical knobs. Drainages in the southern part of the tract are cliffbound by sandstone rimrock. The elevation varies from 630 feet in the valleys to 1,300 feet on the ridges. The highest point, Tater Knob, with an elevation of 1,390 feet, is the geographic center of the area. A Forest Service fire tower atop the knob commands a spectacular 10-mile view in all directions.

When we drove into the area, Bill pointed out for me some of the woodland features. "As you can see," he said, "the slopes and ridges are mature and intermediate hardwood forests of oak, beech, hickory, yellow poplar, basswood, and ash interspersed with Virginia pine, hemlock, and some red cedar. Sycamore, black walnut, and pine are common in the valleys. The understory is mostly fox grape, mountain laurel, rhododendron, sumac, sassafras, dogwood, and greenbrier.

"We have quail, dove, and rabbit in the overgrown fields along the riverbottoms bordering the area, but mostly we'll be hunting forest game—grouse and squirrel. The archery season is on for deer, so we'll probably be seeing hunters with the longbow and crossbow. This is one of the few places in the country where the crossbow is a legal hunting weapon."

I'm an ardent grouse hunter, so I was glad to hear that we'd be hunting my favorite game bird. Whether or not we could score on them with muzzle loaders was the big question. The answer came soon enough. We found grouse plentiful in the thickets in Buck Creek Valley, bagging two and missing several others. At least a half dozen birds flushed wild, affording no shooting. We caught up with them again in the oak slashings on the mountainside at the edge of the valley. John and I walked past the first grouse, and he roared out behind us. We spun, fired, and watched him glide into the valley, feathers unruffled.

"That's a smart old bird." John said. "He'll live a long time."

After reloading, we moved through the second growth angling across the slope, to where the brush began thinning into open woods. Suddenly two grouse went out. I swung on the closest bird, squeezed, and he folded in a burst of feathers. The other made the mistake of trying to circle back around Bill. He swung, let go, and the grouse tumbled into a vine tangle.

"With all the gunsmoke we're putting up," Bobby laughed, "the spotter in the Tater Knob fire tower will think there's a forest fire down here!"

We gathered in the open woods to catch our breath and reload. Bill and Bobby had 12-gauge Parker doubles, and John was shooting a 15-gauge single shot. My gun was a 14-gauge Belgian double with 28-inch barrels. We reloaded with small-game hunting loads of 3¼ drams of black powder and 1⅛ ounces of No. 6 shot. With these loads, the guns have an effective killing range of about 30 yards. Most muzzle loaders, unless they've been to a gunsmith to be choked, are open-bored. This makes for an uneven but wide-flung shot pattern, perfect for grouse.

Loading procedure is to pour the powder down the muzzle, followed by the powder wad, shot, and overshot wad. The charge is tamped firm with the ramrod, which fits under the barrel, held in place by a metal ring. The tamping end of the ramrod is blunt; the opposite end has a small corkscrew, called the worm, which is used to pull gunshot loads. Many hunters, instead of pulling the charge, fire off their loads when they are ready to quit. The final step in loading is to fit metal percussion caps over the breech nipples—either by hand or using a "capper"—and ease the hammers down to safe or uncocked position.

The remainder of a muzzle-loader hunter's equipment consists of a powder horn or metal flask containing the black powder, and a leather pouch with a shoulder strap to carry wads, shots, and percussion caps. John was carrying a belt pouch. Bill, Bobby, and John fill small plastic vials with powder and shot for each reload. This makes for faster reloading and enables them to leave the powder horns at the car.

With a single-shot gun, an experienced muzzle-loader hunter can get off about three shots a minute. But it is not precisely true, as great-granddaddy used to relate, that a hunter can miss a flushing grouse, reload, and down it on the second shot.

Being new to the game, I asked Bobby Durbin, our expert, if there were any special precautions to be taken.

"Just handle the gun as you would any other," he advised. "Keep the hammers on safe position, and keep the muzzle pointed toward the ground or the sky. If you should accidentally jar the hammer forward hard enough, you could touch off the percussion cap and fire the load.

"Before you reload a barrel, remove the caps from both barrels. That's important.

Also, if you've just fired a barrel, keep your face back from the muzzle when you pour the powder in. If there's a spark left in the barrel, you could get a flare out. That's about all."

"Suppose you put in too much powder?" I asked.

"Unless the gun has a defective barrel," Bobby replied, "the only damage will be to your shoulder. This black powder is not nearly so critical as smokeless powder. Your shoulder will cave in from the recoil before you damage a barrel."

Percussion-cap muzzle-loading shotguns are readily obtainable from antique gun dealers and private owners. Modern reproductions are made for hunters who want new guns in the old tradition. Du Pont sells black powder, and other supplies—shot, wads, caps, powder horns, and pouches—can be obtained from antique-gun-supply mail-order houses.

Percussion-cap muzzle loaders occupied a brief period of history, from about 1840 to 1880, bridging the gap between the end of the flintlock era and the development of the cartridge. Muzzle-loading-gun fanciers, I discovered, live in a world all their own, with their own national organization, state and local chapters, a monthly publication, and regularly scheduled shoots. The National Muzzle Loading Rifle Association, which includes shotgunners, has a membership of 8,500. Headquarters are in Shelbyville, Indiana. States leading in muzzle-loading interest, based on NMLRA memberships, are Ohio, Indiana, California, Michigan, and New York.

We hunted the Buck Creek Valley and lower slopes until noon, collecting three more grouse and a gray squirrel. Then, since Bobby and John had to work that afternoon in Winchester, we headed back for the cars. Harold Barber, chief forest game biologist for the Kentucky Department of Fish and Wildlife Resources, had agreed to meet Bill and me for the afternoon's hunting. Together with Bob Collins, supervisor of the Cumberland National Forest, he is credited with originating the idea for the Primitive Weapons Area. Primarily, they were interested in improving the quality of hunting by emphasizing tradition and sporting aspects.

"The way civilization is taking over this country," Harold told me, "we are running out of land, especially wilderness areas. This tract, being readily accessible, is not wilderness by any means. But we're trying to create the illusion. We feel that the area represents an approach to the hand-hewn-log-cabin, coonskin-cap pioneer days that a lot of people might enjoy."

Harold is typical of the Kentucky hill country and not given to making long speeches. But where the Primitive Weapons Area is concerned, natural reticence gives way to unabashed enthusiasm. "We've turned back the hands of time here," he went on. "At the same time, we're applying modern methods of forest and wildlife management. Through habitat improvement, we're trying to provide populations of forest game in the abundance that great-granddaddy used to brag about. The gunning, of course, is restricted to the same muzzle-loading weapons that the old timers used."

"Do you have a big deer herd?" I asked. "We saw a lot of deer trails and buck rubs."

"Not really big yet," Harold replied. "But it's building up. Hunters have taken at least fifteen deer that we know about so far this season. Muzzle-loader hunters took eleven and archers got four."

"Deer were extinct in this part of Kentucky for many years," Bill explained. "Since 1954, over a hundred deer have been stocked, and they're now plentiful enough to permit limited hunting. Wild turkey were stocked in 1960, and we hear a lot of sighting reports. We expect that a spring gobbler season will be opened this year or next."

"Deer hunting pressure is about right for the present size of the herd," Harold continued. "But we could accommodate a lot more muzzle-loader hunters for small game. Many of our grouse coverts and squirrel woods can take more shooting then they're getting."

Hunters do not have to come to the Primitive Weapons Area to hunt with bow and arrow or muzzle loaders. With the exception of the crossbow, these are legal hunting weapons anywhere in Kentucky and in many other states. Many hunters prefer the Primitive Weapons Area because of the abundance of game and the chance to get away from competition from hunters using modern arms. Also, they seem to be more attuned to the hunting tradition than the average hunter; although the shooting opportunities may be greater, the interest is more in spending a challenging day afield than in dragging home a handful of fur and feathers.

"The hunters who come here," Harold said, "are among the best shots, best woodsmen, and the finest sportsmen I've ever encountered. We've never had a hunting accident, and the only game-law violations have been by hunters with modern weapons wandering into the area by mistake. Up to now, we've sent them on their way without preferring charges."

The December sun was already behind the western ridge, leaving the valley floor in shadow, when we started up the old logging road to hunt the lower slopes of Tater Knob. Harold's setter, Lady, ranged ahead of us, eager for bird scent. After a ten-minute walk we turned up a thickly wooded hollow where Lady found her first point. For a moment we stood there admiring her. It was one of those points that grouse hunters dream about. Then we moved in, thumbing our hammers. The setter held beautifully as Harold routed the grouse from knee-high brush not 3 feet from her nose. The barrels of Harold's 12-gauge muzzle loader swung, steadied—and the grouse went down in a shower of feathers. Lady fetched and came strutting back with the bird, a black-ruffed cock, pleased as punch. We admired it and pushed on again.

As we hunted along the rocky slope, Bill paused to pick up something. "It's an Indian arrowhead," he said, holding it up. "If you're interested in Indian relics, this place is loaded with them."

He pointed to a sandstone outcropping high on chestnut cliffs, to the south. "There are Indian caves under those cliff overhangs," he added. "The rocks are still blackened from their campfires. And you can see hominy holes worn in the rocks where they ground corn. If you want, we can do some exploring tomorrow with Bob Reynolds, our District Forest Ranger. You can bring the gun, too. We have Sunday hunting in Kentucky."

Sunday gunning is typical of Kentucky's liberal regulations. Seasons are long and bag limits generous. Squirrel season runs from mid-August through October, and reopens in December. Rabbit and quail open in mid-November. Grouse hunting is underway from December through February. The best month for small game is December, when grouse, rabbit, quail, and squirrel are legal. Daily limits are four grouse, six squirrel, eight rabbit, and ten quail, which makes for a heavy although somewhat improbable game bag

Archery season on deer opens in October. Gunners get five days in November, and the Robin Hoods take over for another ten days in December. During gunning season deer may be taken on the Primitive Weapons Area with either muzzle-loading rifles or shotguns. The shotguns must be charged with No. 2 buckshot or larger. This is a hunter's choice season—buck or doe. Hunting licenses are $3.25 for residents, $15.50 for non-residents. Deer tags cost an extra $10.50.

The Primitive Weapons Area can be reached via Route 826, which cuts off Route 60 east of Salt Lick, or via Route 211 south of Salt Lick and east on Forest Service road 129. The turnoffs are well marked by Forest Service directional markers. The tract is bounded on the northeast by the Licking River and on the south by Leatherwood Creek. The northwest section, in the Trough Lick Branch area, is accessible only by walking. It draws little hunting pressure despite an abundance of deer, squirrel, and grouse.

To preserve the wilderness setting, camping is not permitted in the Primitive Weapons Area. Forest Service camping grounds have been established at four access areas—two along Route 826, one on Forest Service Road 129, and one on Bucks Creek. Another camping area, complete with tent pads, tables, fireplaces, and sanitary facilities is located at nearby Clear Creek Furnace campground on Forest Service road 129. Everything is open to the public with no registration or special permits required.

During our final hour of hunting, Bill, Harold, and I bagged two more grouse, missed several others, and Bill downed a gray squirrel. As we headed back for the parking area, we saw another hunter coming out of the woods. Bill had told me that some muzzle-loader hunters turned out in full regalia and this fellow was dressed for his sport. Attired in coonskin cap and buckskin, with a flintlock Kentucky long rifle cradled in his arm, he came striding out of the woods without a care in the world. It was like seeing a figure stepping out of a history book.

Mr. COOK. Mr. President, in addition to describing the rugged, natural beauty of the area, there is an account of the wildlife found in the Pioneer Weapons Hunting Area by Harold Barber, chief forest wildlife biologist of the Kentucky Department of Fish and Wildlife Resources.

He makes reference to the stocking of wild turkeys in the area. At a later date Mr. Barber wrote a progress report on the status of the wild turkey in Kentucky which I would like to submit for the RECORD as exhibit 2 at this point.

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

EXHIBIT 2

THE WILD TURKEY UNDER SIEGE

(By Harold Barber)

In the March 1966, issue of the *Happy Hunting Ground* magazine, a progress report was given on the status of the wild turkey in Kentucky. In that article the author related that a total of 400 live-trapped wild turkeys had been successfully transplanted and released on 17 restoration areas during the period from 1950 through 1965.

It was also reported that efforts to restore turkeys through the release of game farm stock had been discontinued, since no known establishment had resulted from the thousands of pen-reared birds released; while no known failures to establish wild turkeys had resulted where trapped wild stock had been released. Restoration through the use of wild stock was an outstanding success, and Kentucky's efforts along this line with both turkeys and deer comprise one of the outstanding wildlife achievements that have been recorded anywhere in the nation. Very few efforts of any kind can claim a record of 100 per cent success, but our turkey restoration efforts with genuinely wild birds can make that claim.

The purpose of this article is to relate some of the events of the last six years, to discuss the probable causes, and to suggest a future course.

POPULATION TRENDS

The number of wild turkeys present in Kentucky has declined since 1966, and several of the flocks appear to be in trouble. Two areas that recently supported exceptionally good turkey populations, the Beaver Creek and Sky Bridge vicinities, are almost devoid of turkeys today. Three other areas that also supported good flocks, the Robinson Forest, Ford Track, and Mill Creek vicinities, have experienced population declines.

These trends have caused concern, and some very serious and basic questions as to why. A turkey research study has now been started, admittedly somewhat belatedly, and it is hoped that this study will eventually reveal the specific limiting factors that are of primary importance in Kentucky, and the relative importance of each. A number of years will be required before this study is completed and the facts are documented, however, and we cannot just ignore the topic during that time.

In view of this, surely it is permissible at this stage to examine the situation as we now see it. The following discussion is based on some 20 years of field experience and observation by the author and by co-workers who have been involved with Kentucky's turkey restoration efforts since the beginning. We frankly admit that some of the comments are offered without documented evidence, and thus could perhaps be considered food for thought rather than firm conclusions. We do, however, have some facts in the form of survey data, and we believe that we also know some things that we cannot yet prove.

LEGAL HARVESTS

It is important to note that none of the areas where turkey populations have declined have been adversely affected by harvests during legal turkey hunting seasons. In fact, legal harvests have been so low as to be negligible. In addition, all except the 1962, 63, and 64 seasons have been for gobblers only, and have had no effect on the reproductive potential of the flocks.

Good turkey populations still exist on at least three areas: the Pioneer Weapons Hunting Area, the Land Between the Lakes, and the recently stocked Fort Knox Military Reservation. These three areas have one thing in common: all have special hunting restrictions or some type of protective measures in effect. None of these areas is a refuge, but neither do they receive heavy hunter concentrations during the squirrel season, nor extended periods of heavy hunter use during any season. Gun hunting on the LBL area and on Fort Knox is restricted to special shortened seasons, and the quota of hunters is controlled by a permit system. On the PWHA statewide hunting dates apply, and no restrictions are in effect regarding the number of hunters, but muzzleloaders are the only firearms allowed.

During recent turkey hunting seasons, almost all of the known harvest has occurred on the LBL area and on or in the vicinity of the PWHA. The fact that these areas are the most heavily hunted during turkey seasons and still support good turkey populations is a strong indication that legal harvests have not been a decimating factor.

HABITAT CHANGES

As might be expected, habitat changes have occurred. On some areas timber harvests have removed vast acreages of the former turkey habitat, to be followed by a tangle of young-growth vegetation in which no turkey could live. Various types of construction and development have also taken place. These changes have been drastic on a few areas but only slight on other areas; while turkey populations have declined in both situations. Habitat destruction has undoubtedly played a part in the turkey decline, and there is no intent to minimize the effects of this factor; however, we must look further for the full causes.

Thus the pertinent question still remains: why have turkey flocks that were established only 15 to 20 years ago, and thriving and increasing at one stage, now shown a population decline? The answer is complex and involves a number of different factors, but it could probably be summed up in two words: poaching and harassment.

TURKEY DISTURBANCE

Turkey populations in some other states have shown an ability to survive on some rather scrubby habitat where an extensive area free from human disturbance is present. Throughout their range, however, wild turkeys have shown one characteristic in common: an inability to tolerate people.

In Kentucky, road construction and improvements have opened year-around access routes into publicly owned areas that were inaccessible 15 or 20 years ago, and have brought a vast increase in year-around visits by sight-seeing motorists, trout fishermen, picnickers, and campers. Some of these recently constructed roads have been routed through the very heart of the best remaining turkey areas. Many miles of foot trails have also been constructed on publicly owned lands, and in addition to bringing an increase in disturbance of remote areas by hikers, these trails have often been used illegally by motorized vehicles, especially trail bikes. In the total picture, the increase in turkey harassment would be difficult to exaggerate. It is believed to have been of key importance on some areas, and especially so during the seasons when turkeys were nesting and when broods were being reared.

POACHING

There is no diplomatic way to discuss poaching. It must be discussed bluntly and honestly or left undiscussed. It has been left undiscussed far too long, and when dealt with at all has generally been given something less than a frank and thorough examination.

Poachers possess two characteristics in common—an inability or unwillingness to obey the laws, and a childish need to eventually brag to somebody about what they did. The word has finally filtered all the way from them to us, and the word we receive is that the turkeys have been shot. They were reportedly killed when the turkey season was closed, but when people were in the woods with guns during open season on other game species, primarily during the squirrel and deer seasons. They were reportedly killed whenever and wherever an opportunity occurred.

This report is completely logical and there is no reason to doubt its basic accuracy. Turkey hunting, at best, results in a low rate of hunter success, and it is unlikely that very many turkeys have been killed illegally by hunters who set forth with this specific goal in mind. The person who flushes a turkey seldom even sees it, and when only a few people are in the woods the turkey's extreme wariness and keen eyesight give it an advantage in eluding a hunter. When the woods are full of hunters, however, a turkey has no place to hide, and in getting away from one hunter after another he will eventually blunder into shotgun range of someone.

PUBLIC ATTITUDES

Mankind has waged a ceaseless war on wild turkeys, a war which the gentle turkey has always lost. Their decimation on inhabited areas today is a tribute to an unchanging Kentucky attitude, an attitude that says: "If it's big enough, shoot it—you can go up later and see what it was." The turkey is big, a tempting target, and too many hunters who encountered one while afield with a gun have found that target irresistible. Current trends in the turkey population are probably due more to this attitude than to any other single factor, and are an illustration of the futility of attempting to manage the trophy species of wildlife without the support and backing of the general public.

The wild turkey decimation is also a tribute to weak and ineffective county courts, where the typical attitude is a concern for making friends rather than a concern for the enforcement of the commonwealth's laws. It is a reflection of conditions where the minimum fine is always levied, rather than an occasional maximum; and where fines even below the legal minimum are not unknown.

It is also a tribute to gun hunting seasons that open in mid-summer, with the opening of the squirrel season, and close six and one-half months later; and to a year-around legal season on hunting with dog; or "varmint" hunting with guns for foxes, crows and groundhogs. Public attitudes and public demands have dictated these seasons, in defiance of biological knowledge and sound game management principles.

The attitudes that create this situation are not restricted to any certain groups. Community leaders and professional people are among some of the worse violators of fish and game laws. They have set the example that young beginning hunters have followed. Can we expect a young hunter to regard an act as seriously criminal when the same act is regarded by his adult associates as socially and morally acceptable? No one should be surprised that the state does not have more wild turkeys—or deer, or black bear, or bobcats, or eagles.

A MATTER OF PRIORITY

Any game management endeavor must consider the importance of its objectives and purposes, since other objectives in the form of different game management endeavors or conflicting land uses are competing for the use of the same funds and the same tract of land. The question of turkey priorities presents something of a paradox, in that agencies and personnel who profess an interest in turkeys have always found some reason for placing turkey management at the bottom of the list when budgets were approved, personnel were assigned, and land use priorities were designated. In this regard, it is interesting to speculate on what the status of turkeys might be today if they had received a portion of the attention and funds that were given to other species during the last 20 years.

Turkey have always emerged as the losers whenever a timber harvest, a new camp site or recreational development, a reservoir, or a road was being located. Turkey habitat seems to be a magnet that draws these things into its very center. Then after the project has been completed and the crews of workers have departed, there are always some who express surprise that turkeys cannot survive on the altered habitat, or cannot cope with the sudden influx of human beings.

Turkeys are a popular topic of conversation, but most of those who like to talk about them seem to shy off when the topic turns to sacrificing any other value in their behalf. Turkeys are desirable as long as they don't interfere with anything else, and as long as they can survive on lands that are unfit for any other use. Perhaps it is time to ask ourselves whether we really want turkeys, or whether we merely wish to discuss them.

THE FUTURE

In looking back over some 20 years of turkey restoration experience, it appears that we have learned a few lessons. At least one fact has emerged very clearly: management efforts cannot succeed where public cooperation is lacking. As a wildlife administrator in a neighboring state once remarked, following a furor over the deer hunting regulations, "if we knew as much about managing people as we know about managing deer, our

problems would dissolve." The same could be said for turkeys, or for any of the vulnerable trophy species of wildlife. It seems, therefore, that a portion of our future efforts must be expended on people if success is to attend the wildlife management effort.

The attempt must have an entirely new approach from that taken in the past. It cannot set public relations and education aside as topics separate and apart from widlife management, but must consider those efforts as an integral part of the entire wildlife management program.

If the effort is to succeed, we must also have fish, and game clubs that are willing and unafraid to except pressure on lax county officials, or to line up openly on the side of wildlife at trial time and election time. We need stiffer court penalties—and occasional moderate or maximum fine instead of the minimum. And in addition to punishment, we need a public attitude that recognizes an offender as the criminal that he is, instead of extending him misguided sympathy.

In short, without a change in attitudes and without involvement on the part of the state's citizens, the entire conservation effort is in trouble—whether the problem be turkey poaching, stream or air pollution, land despoilment by earth-moving machinery, or indiscriminate garbage littering. Without such a change in attitudes, we few who work with wildlife as a profession are in the position of attempting to force something on people that they apparently don't want and don't see any need for. We cannot do that.

The principles of game management have not been tried and found wanting. They have been found difficult and left untried. We have an organizational framework that is capable of getting the job done, and we have a management program that will succeed if given a chance. We can have trophy species of wildlife if we really want them badly enough to obey the laws for a few years. Why don't we give it a try? We have nothing to lose—and a whole state with its rich heritage and wealth of natural resources to gain.

Mr. COOK. Finally, Mr. President, Mr. Barber prepared a report in August 1972 which I also submit as exhibit 3, regarding specifically the pioneer weapons hunting area, its purpose, use, and the environmental impact of an excess road to the Zilpo Recreation Area on the wildlife of the area. I would call special attention to Mr. Barber's "considerations in regard to road construction" and his summation, which I ask unanimous consent to have printed in the RECORD at this point as exhibit No. 3.

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

EXHIBIT 3

THE PIONEER WEAPONS HUNTING AREA

BACKGROUND

The Pioneer (originally Primitive) Weapons Hunting Area was established in July, 1962, by means of a cooperative agreement between the Kentucky Department of Fish and Wildlife Resources and the U.S. Forest Service. It contains 7,300 acres of land, located on national forest ownership west of and adjacent to the Licking River. Approximately 4,400 acres are located in Bath County, the remaining 2,900 in Menifee County. The area is administered by both agencies under a Cooperative Management Plan, with the plan currently in effect extending from January 1, 1965, to January 1, 1975.

PURPOSE OF AREA

Wildlife management objectives on the area are mainly as follows:

1. To provide above-average wildlife population levels, especially of deer, in order to furnish remunerative primitive weapons hunting;

2. To furnish hunting to a greater number of hunters and for a longer period of time than would be compatible with sustained-yield wildlife populations under the pressures of hunting with modern firearms;

3. To demonstrate, promote, and encourage primitive weapons hunting as a wildlife management technique that could be applied elsewhere, as a means of retaining recreational hunting in the face of increasing human populations and decreasing wildlife populations;

4. To aid the local economy by lengthening the period of time spent in harvesting surplus wildlife numbers, thus lengthening the period during which non-local hunters spend money in the vicinity.

REGULATIONS

The area has been open to uncontrolled hunting during regular statewide seasons on the various game species present. Statewide bag limits have applied, and the only special hunting restriction in effect has been in regard to the types of weapons used. Longbows, crossbows, and muzzleloading firearms have been permitted; this being the only area in Kentucky and one of the very few in the entire nation where crossbows are legal.

SOME RESULTS

1. *Public Use of Area.* During the first year or two after the area was established, some criticism was voiced in regard to "locking up" so much publicly owned land and excluding it from use by hunters. This criticism has not been heard during recent years, and those who originally voiced it are now among the strongest supporters of the area. The actual result has been the opposite of lessening hunter use. One proof of this can be observed during the spring turkey gobbler season, when the Kentucky Corps of Longriflemen hold their annual rendezvous at the Clear Creek camp grounds to coincide with the turkey hunt, and converge on the spot from all directions. Some even come from out-of-state. The PWHA thus receives heavy hunter use at a time when similar habitats a few miles away are completely devoid of hunters. Another example occurs during the October bow season, when many archers can be found camping on the fringe of the area during the first week of season and on later weekends.

The only significant loss of hunter use that has actually resulted from area establishment occurs during the squirrel season, and a surplus of woodlands open to squirrel hunters using modern firearms can be found in any direction. The increase in other forms of area use has far exceeded this loss, and the area annually receives several times as many man-days of hunter use as do similar habitats located only a few miles away.

2. *Wildlife Populations.* The area has served at least one refuge purpose, although it is definitely not a refuge. Area regulations and management have enabled the vulnerable trophy species, deer and turkey, to survive in greater numbers than on surrounding lands. In fact, this is apparently the only area in the state today where a thriving turkey population continues to exist under season-long hunting for all legal game species. Both deer and turkey have ranged freely into and out of the area, and have been subject to legal harvest by modern firearms when outside of area boundaries. A fairly good annual deer harvest has been sustained in drainages adjacent to the PWHA during a period of years when deer harvests were essentially nil ten miles away. Approximately five times as many turkeys have been harvested outside the area, by modern firearms hunters, as were harvested inside. It is possible that the area has actually been of greater value to hunters who used modern firearms than it has to hunters who used bows or muzzleloaders.

3. *Crossbows—A Myth Laid to Rest.* Past fears of the crossbow as an overly efficient means of poaching have proved to be purely imaginery, and completely without basis in fact. Crossbows have the same inherent limitations in regard to effective range, accuracy, and awkwardness as longbows, and they handicap the hunter to a comparable degree. Those who use either weapon must possess considerable skill or a good share of luck, or both, in order to harvest a deer. Crossbows have proved to be useful, however, in providing physically handicapped persons and elderly persons with an opportunity to participate in archery deer hunting.

CONSIDERATIONS IN REGARD TO AREA SIZE

Statements have been made to the effect that the PWHA is too large; that it contains too much to be set aside for use by a special-interest minority group. It is important to note here that such statements have not been made by hunters, but rather by a few who regard recreational hunting as a waste of time and space. It also seems pertinent in this regard to point out that Kentucky as a whole is 45% forested, with 11½ million acres of woodland. The PWHA, with 7,300 acres, contains less than one-tenth of one per cent of this total—a portion that hardly seems excessive.

In order to more fully achieve the objectives for which the area was established, the PWHA should ideally be increased to a minimum of 15,000 acres. Biologists in some states have set 15,000 acres as a minimum size unit for wild turkey management, and some authorities have said that even more acreage is needed.

Game harvests outside of the area boundaries have been good in one sense, but this feature has limited the wildlife population buildup on the area itself. The area is simply too small to encompass the annual home range of deer and turkey and to support those species independently of surrounding lands. If it could be increased to approximately double its present size, a considerably higher deer population level could be achieved and maintained; a necessary achievment if good archery hunting is to be provided. Such an increase would not adversely affect the users of modern firearms, but could actually benefit them by providing an increased length of area boundary and an increased amount of adjacent lands to be benefitted by game movements across area boundaries.

SCHEDULED LOSSES DUE TO LAKE CONSTRUCTION AND RECREATIONAL DEVELOPMENTS

When the Cave Run Reservoir is completed, approximately 300 acres of prime wildlife habitat within the eastern boundary of the PWHA will be covered with water. Another adverse effect on the area is scheduled for the west side: a small watershed project on Salt Lick Creek includes plans for a recreation lake on the Clear Creek tributary. This lake will be outside of the PWHA itself, but only one-half to three-fourths of a mile from the boundary, and located on national forest land in the center of the nesting area preferred by the turkeys. In addition to the critical loss of turkey nesting habitat, the disturbance resulting from such recreational construction and use can only have adverse effects. Water-retarding structures are scheduled to be built on several other tributaries of Salt Lick Creek, and any one of them could be made a recreation lake; but both of the federal agencies involved have endorsed the Clear Creek site.

Two of the three major recreation developments planned for the Cave Run Reservoir will also adjoin the PWHA. One will be located on Caney Creek, adjacent to the northern boundary; the other on the Zilpo peninsula, in close proximity to the eastern

boundary. (See inclosed area map or Salt Lick and Bangor quadrangle maps.) Each of these will contain a launching ramp and eventually a marina, swimming beach, parking lots, roads, storage and maintenance buildings, caretaker's residence, camp sites for 1,200 people, and so forth.

CONSIDERATIONS IN REGARD TO ROAD CONSTRUCTION

The Clear Creek—Leatherwood Creek Road (FS 129), presently a gravel road, is scheduled to be reconstructed and modernized as a part of the comprehensive access plan for the Cave Run Reservoir. This road adjoins the southern boundary of the PWHA. A completely new highway is scheduled to be constructed to the north of the area, extending up White Sulphur Branch and into Caney Creek, parallel to and one-half to three-fourths of a mile from the PWHA boundary. Still another road, a modern two-lane blacktop, is planned for the Cedar Cliffs and Tater Knob ridges, cutting the PWHA in half. This road is the one that the Kentucky Corps of Longriflemen, the Eighth District Wildlife Federation, and the League of Kentucky Sportsmen have objected to.

The avowed purpose of this road is solely to provide access to the Zilpo recreation area, although it will also provide access to privately owned lands. These privately owned lands are presently remote and inaccessible and surrounded by national forest ownership. The reasons why they have not been purchased either as a part of the lands acquired for the reservoir or as a reduction of privately owned inholdings on the national forest have not been made public.

We have been asked what effect this road will have on wildlife populations and management objectives within the Pioneer Weapons Area. The question is reasonable, but impossible to answer: there is no way that we can do a study or survey of something that doesn't exist. After it is built, such a study would be pointless except perhaps for academic reasons. We can, however, call on more than 20 years of experience in dealing with similar situations elsewhere, and the prognosis is not good. Past experience reveals that conservation awareness nearly always comes too late, after the thing that was of value has already been destroyed. We know that we already have too many roads for the good of wildlife, and have very few areas left in Kentucky where the trophy species can exist on anything more than a marginal level. Increased use of the PWHA by motorists, hikers, picnickers, etc. is good in one sense—but it's possible to have too much of a good thing, especially if you have it everywhere.

Increased use of the PWHA by non-hunters during the turkey and deer breeding seasons is expected to produce an increase in various forms of wildlife harassment. The proposed road may prove to be a barrier to wildlife movements. It may also possess an attendant zone of influence, resulting in a reduction of the habitable wildlife range area.

The proposal in regard to road construction appears to be in conflict with the concept of Pioneer Weapons Area management as set forth in the Cooperative Management Plan. On pages 10 and 11 of that plan, under the heading of "Administrative Guidelines", the following is stated: ". . . C. Retain the remote pioneer atmosphere as an essential element of quality of experience; . . . H. Provide needed user facilities as required, but in such a manner as to preserve the essential element of remoteness." In the Appendix on page A–3, "Transportation Plan", the following is stated: "All other roads will be substandard and for logging use only, to be barred and/or gated when not in use." In a summary write-up dated May 19, 1964, under the heading of "Transportation System", the Forest Service stated that "The objective is to maintain a remote pioneer atmosphere while providing the minimum basic transportation system required to achieve sound resource use. Vehicular traffic by sportsmen is not encouraged, but foot travel is encouraged. . . ." No revisions in the Cooperative Management Plan have been made or proposed.

It sometimes helps to line ourselves up in relation to something solid, in order to see just how far and in what direction we have moved. In this instance, specifically recorded objectives provide such a milepost. The management plan for the Pioneer Weapons Area received a considerable amount of time and effort from both agencies, and was widely recognized only six years ago as one of the best efforts along this line that had yet been produced.

The justifications that have been offered for the whittling away process that started soon afterward and is seemingly about to be vastly accelerated are somewhat comparable to earlier references to "a little" stream pollution. Little effects have a way of becoming massive effects in the cumulative total. Good wild turkey flocks were present less than ten years ago on national forest lands in the Beaver Creek and Sky Bridge vicinities, but those flocks have now become almost exterminated by the cumulative effect of various factors related to increasing human harassment and decreasing habitat. Present indications that wild turkeys on the PWHA are endangered and may soon follow the same route to oblivion are too clear to be doubted by anyone with a knowledge of wildlife biology and information regarding present plans for development on adjacent lands.

IN SUMMATION

In consideration of the various factors discussed above, it seems apparent that the continued existence of the Pioneer Weapons Hunting Area is seriously threatened. There is little cause for optimism that the area will survive in its present form, even without the proposed road. If the road is built, the attendant alteration in the character of the area may make it impossible to manage native wildlife so as to achieve the purposes for which the area was established. Consideration has been given to moving the area to publicly owned lands elsewhere, but no suitable alternative site has been found anywhere in northeastern Kentucky.

Mr. COOK. Mr. President, there has been a great deal of confusion surrounding the effort to preserve the Pioneer Weapons Hunting Area. The issue is whether the Pioneer Weapons Area will be environmentally damaged by a high-traffic access route planned by the U.S. Army Corps of Engineers bisecting the area or an alternate route which generally skirts the area will be built to preserve the area.

Given this introductory information, I would like to now carefully outline the purpose and intent of my legislation.

There have been charges by proponents of the corps planned road that outsiders are meddling in local affairs. But paraphrasing H. R. GROSS, the able Congressman from Iowa who noted during House debate on this matter, the taxpayers of the United States are paying $25 million for a lake that is in the Seventh Congressional District of Kentucky. I ask, do we really have any outsiders in this matter of the administration of Federal funds?

I ask unanimous consent to have printed in the RECORD at this point an editorial from the Louisville Courier-Journal of October 16 on the matter as exhibit 4.

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

EXHIBIT 4

TAXPAYERS AREN'T REALLY OUTSIDERS AT CAVE RUN

Complaining that "certain outside interests" are meddling in the controversy over construction of a road through the primitive hunting area near Cave Run Reservoir, Representative Carl Perkins has succeeded in amending a water development bill to make certain the road is built. One wonders which outsiders he is talking about.

It was outsiders—the American taxpayers—who put up most of the $45 million required to finance the Cave Run project, which should be a powerful economic stimulus to that region. Is it too much to ask that the general public's interest in this hunting area, of the Daniel Boone National Forest—with its unusual population of wild turkey, white-tail deer and grouse—be protected?

Such "outsiders" as Representative Gene Snyder and Senator Marlow Cook have opposed the U.S. Corps of Engineers' plan to build the road through the preserve, as have the League of Kentucky Sportsmen and various environmental groups. They vigorously insist that this unique facility for hunters using standard bows, crossbows and muzzle-loading rifles be protected from the intrusion of highway noise and fumes.

This broad opposition to the road should be considered in the future, as other attempts are made to force a congressional rethinking of the route. The meddlesome outsiders who believe it is worth spending an extra $900,000 to build the road around the preserve, rather than through it, certainly have a right to their opinion. And Congress, after a more thorough study than has been conducted up to this point, just might buy their view.

Mr. COOK. Mr. President, there have also been several general comment editorials which my colleagues may find informative, and I ask unanimous consent that they be printed in the RECORD at this point as exhibit No. 5.

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

[From the Louisville Courier-Journal, Oct. 30, 1973]

EXHIBIT 5

CONCRETE AND NATURE DON'T MIX

An interesting combination of forces is pushing against the Corps of Engineers and the Forest Service in their attempt to build a road through one of the most significant wildlife areas in the Daniel Boone National Forest.

Unfortunately for the wild turkeys and deer that nest and breed there, the Cave Run Reservoir is located nearby. And the development of the recreational potential of the lake requires a road for public access.

Most people take roads for granted, assuming that the neat application of a concrete ribbon through relatively untouched woodland will simply open up lovely vistas for the highway traveler. But roads do a little more than that. Their construction involves enormous disturbance of earth, and some inevitable erosion of soils. Vegetation is eliminated in the access, and much of it is not replaced in highway landscaping.

More important from the viewpoint of the wildlife in such areas, the normal grazing and nesting patterns of various species are disturbed. And any such disturbance sends a chain reaction of ecological consequences shuddering through the local environment.

Finally, the tourists with their noses pressed against the windows do not smell the auto exhausts that drift across nearby woodlands. Nor do they hear the full volume of

highway noise which shatters the pastoral calm.

The conservative Representative Gene Snyder is as concerned about this kind of intrusion at Cave Run as are the more liberal environmentalists. Senator Cook and the League of Kentucky Sportsmen line up with the preservationists on this issue. That should tell the road planners something. And since there is an alternative route that would be substantially less offensive to all opponents of the road, it's hard to find much justification for sticking with the present plan.

[From the Lexington Herald, Sept. 20, 1973]

SAVE THE TURKEYS IN BATH, MENIFEE

"Where have all the turkeys gone . . ."

That plaintive question may be a bit premature but it could happen if the U.S. Corps of Engineers goes ahead with its plans to build a highway through a unique hunting area in Eastern Kentucky despite a U.S. Senate vote to place the area off limits to any development.

The road under question is an eight-mile stretch through the middle of the Pioneer Weapons Area in Bath and Menifee counties, part of Daniel Boone National Forest.

Environmentalists and hunters, led by the League of Kentucky Sportsmen, are fighting the road because they believe it will virtually eliminate the wild turkey population in the 7,000-acre hunting area.

We're not opposed to needed roads, mind you, but the area at issue is a unique bit of wilderness. It is one of the few remaining places in Kentucky where wild turkeys actually exist.

U.S. Sen. Marlow Cook, R–Ky., led the effort in the Senate to get the site declared a national wilderness area but the House is still considering the proposal. Meanwhile, the corps has not abandoned its plan.

All is not lost, however. Hopefully the corps will select an alternative route for the blacktop road. Sportsmen say the wild turkey nesting grounds will not be disrupted if the road crosses the eastern tip of the hunting area.

This would mean an additional cost of about $900,000 on top of the original estimate of $1.9 million. But in our view it would be worth every penny of it to save this wildlife refuge. Every effort should be exerted to force the corps to select the alternate route.

[From the Louisville Courier-Journal, Dec. 19, 1973]

ENDANGERED SPECIES COME FIRST

Though Senator Marlow Cook is right and Representative Carl Perkins is wrong on the question of a road through the Pioneer Weapons Area in the Daniel Boone National Forest, they both merit commendation for sidetracking their fight long enough to let the endangered-species bill move toward passage.

Senator Cook's amendment, which he has withdrawn on the promise of separate hearings, would have blocked construction of an access road through this 7,000-acre preserve—near Cave Run Reservoir in Bath and Rowan counties—where hunters use only crossbows, bows and arrows, muzzle-loading firearms or other primitive weapons.

The Senator has in mind a different route, which, though slightly more costly, is ecologically preferable. It would skirt the hunting area, leaving the wild turkey, grouse, deer and other wildlife undisturbed. And, before suspending his fight for this superior route, Mr. Cook won agreement for the issue to be thoroughly aired in House and Senate hearings next year. This was a proper quid pro quo.

To delay the endangered species bill any longer (it already has waited three years for passage) would be to expose large numbers of eastern timber wolves, Utah prairie dogs and Texas red wolves to human predators, unnecessarily. The votes are there to pass the measure now.

However, when the hearings on the primitive hunting preserve road are held next year, those who like Representative Perkins are promoting the road through the area should be made to explain just what benefits might accrue to private landowners along their route. And the sharply contrasting cost analyses offered by the U.S. Corps of Engineers and the through-route's opponents should be carefully explored.

If a road is built through the preserve, the fumes and noise of traffic seem likely to drive away the wildlife that construction activities didn't scare off. If that happens, there'll be no opportunity for a second try.

Mr. COOK. Mr. President, it seems to this Senator that the tragedy of building a road which bisects the Pioneer Weapons Hunting Area lies in the fact that a feasible alternative route to Zilpo is available. This road would generally skirt the Pioneer Weapons Area and would be substantially less offensive to all opponents of the presently proposed road. The alternative is a route recommended by the League of Kentucky Sportsmen extending northward from FDR No. 129 generally skirting the eastern boundary of the Pioneer Weapons Area and joining the alinement of the proposed FDR No. 918. I maintain that the League of Kentucky Sportsmen's route is much more realistic.

A comparison of this alternative plus two additional alternatives has been prepared by the Louisville district office of the Corps of Engineers for inclusion in their environmental impact statement due to be published in its final form in January. To facilitate comparison of the programs and for the convenience of reference by my colleagues, I ask unanimous consent that a copy of the relevant pages of the draft environmental impact statement discussing the various alternative routes appear at this point in my remarks as exhibit 6.

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

EXHIBIT 6

b. *Impact of the Proposed Action on Other Agency Projects.* Development of the project will directly or indirectly affect three other State or Federal agencies. These agencies are the U.S. Forest Service, the Commonwealth of Kentucky, Department of Fish and Wildlife Resources, and the Gateway Area Development District.

(1) The project area lies almost entirely within the proclamation boundary of the Daniel Boone National Forest; and under the terms of a memorandum of agreement between the Forest Service and the Corps of Engineers, all project lands, with the exception of those necessary for the operation of the dam will be transferred to the Forest Service for management. Some 30,668 acres of land will be transferred. The lake will inundate approximately 485 acres of Forest Service land at seasonal pool. The project will also affect portions of USFS lands through requirements for road relocations and access roads. One such road is the Zilpo access road or Forest Development Road No. 918. The Corps of Engineers Cave Run Lake Requirements Plan, Design Memorandum No. 5A and the U.S. Forest Service Composite Plan propose the use of the Zilpo site for camping, swimming, boat access and other uses. This site is located on a flood plain terrace which is bounded on the north and east by the proposed lake shore and on the south and west sides by the Pioneer Weapons Hunting Area. To reach the site, an adequate access road must be provided. Presently under consideration is a two lane, 20 foot wide 8½ mile long paved road which will bisect the Pioneer Weapons Hunting Area to reach Zilpo recreation site. Concern has been expressed by the League of Kentucky Sportsmen and various other organizations and individuals as to possible adverse effects to the area resulting from construction of the road. It should be noted that the Pioneer Weapons Hunting Area is not to be confused with a "wilderness" or "primitive" area. The area is essentially the same and is managed the same as other forest land in the Daniel Boone National Forest System. It differs only in that a State regulation restricts the use to particular types of weapons for hunting. A study is being initiated to determine the size and impact of the road on the turkey herd. Four major alternatives in the proposed road have been considered. (1) a shoreline route from State Highway 826 to State Highway 1274; (2) a proposal by the League of Kentucky Sportsmen recommending a route extending northward from FDR 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area (PWHA) and then joining the alignment of FDR 918; (3) a route that would come from the north side of the lake across a bridge at a narrows near Zilpo to relocated Highway 1274 and from there along Wilson Hill a 1200 foot bridge span with fill approaches; (4) no action to build a road and access by boat only. Evaluation of these alternatives and their consequences indicated that the proposed location through PWHA best meets the multiple-use objectives and minimizes the adverse impacts to the surrounding area. A comparison of the effects of the alternatives considered on major areas of concern is summarized and shown in Exhibit 29 and Exhibit 30 in the Technical Appendix, pages 61 and 62.

ZILPO RECREATION SITE ACCESS ROAD ALTERNATIVES

PROPOSED ROAD

Timber: Will provide best access for timber management activities.

Improvements: Will eliminate 5 miles of existing hiking trails and one wildlife waterhole.

Recreation: Will provide access for better utilization of the Zilpo recreation area.

Special Uses: Possible adverse impact from requests for access across rights-of-way into private tracts.

Wildlife: Will provide an increase in the diversity of habitat conditions; will result in an increase in vehicular accidents with wildlife.

Soil: Some soil displacement and erosion.

Water: Will adversely affect water quality during initial construction.

Fire: Will increase fire risk, and will provide best access for fire control.

Safety: Predominantly ridgetop location will provide a greater degree of safety.

Remoteness: Will bisect the pioneer weapons hunting area, adversely affecting its remote qualities.

Aesthetics: In some places the ridgetop landscape will be exposed; maximum opportunities for overlooks, vistas and scenic views provided.

Road Costs: $1,990,000.

Future Maintenance: Nominal cost based on ridgetop road with minimum cuts and fills.

Local Economy: Will provide nearby recreation oriented enterprises with additional revenue.

SHORELINE ROAD

Timber: Will provide limited access.

Improvements: No effect.

Recreation: Will provide access, but will disrupt Caney recreation area.

Special Uses: Possible adverse impact from requests for access.

Wildlife: Will provide an increase in the diversity of habitat conditions; will result in an increase in vehicular accidents with wildlife.

Soil: Greatest soil displacement and erosion due to more unstable soils and greater cuts and fills.

Water: Will result in greater water quality deterioration for a longer period of time.

Fire: Will increase fire risk, and will provide poor access for fire control.

Safety: Excessive cuts and fills, danger of falling rocks and debris.

Remoteness: Will provide access only to perimeter of the area, with less effect on remoteness.

Esthetics: Scenic benefits more than offset by scarred landscape caused by large cuts and fills required.

Road costs: $8,135,000.

Future Maintenance: Excessive cost due to major cuts and fills in unstable soils and large drainage structures.

Local Economy: Will have a greater influence on the economy due to heavier use and greater opportunity for development of private tracts.

LEAGUE OF KENTUCKY SPORTSMEN ROAD

Timber: Will provide limited access.

Improvements: No effect.

Recreation: Will provide access for better utilization of the Zilpo recreation area.

Special Uses: Possible adverse impact from requests for access.

Wildlife: Will provide an increase in the diversity of habitat conditions; will result in an increase in vehicular accidents with wildlife.

Soil: Soil erosion and slide potential greater than proposed road but less than shoreline road.

Water: Will have greater impact than the proposed road, but less than the shoreline road.

Fire: Will increase fire risk, and will provide poor access along much of the route.

Safety: Steep grades, cuts and fills with loose rocks and debris.

Remoteness: Will provide access only to perimeter of the area, with less effect on remoteness.

Esthetics: Scenic benefits diminished by scars from large cuts and fills.

Road Costs: $2,870,000.

Future Maintenance: Higher than normal cost due to large cuts and fills in unstable soils, several major drainage structures.

Local Economy: Will provide nearby recreation oriented enterprises with additional revenues.

CROSS-LAKE ROAD

Timber: Will provide limited access.

Improvements: No effect.

Recreation: Will provide access for better utilization of the Zilpo recreation area.

Special Uses: Possible adverse impact from requests for access.

Wildlife: Will provide an increase in the diversity of habitat conditions; will result in an increase in vehicular accidents with wildlife.

Soil: Soil erosion and slide potential greater than proposed road but less than shoreline road.

Water: Will have greater impact than the proposed road, but less than the shoreline road.

Fire: Will increase fire risk, and will provide poor access for fire control.

Safety: Excessive cuts and fills, danger of falling rocks and debris.

Remote-base: Will have least effect on remoteness of the area.

Esthetics: Scenic benefits diminished by scars from large cuts and fills and by a large bridge crossing the lake.

Road costs: $4,860,000.

Future Maintenance: Higher than normal cost due to large cuts and fills in unstable soils and major drainage structures.

Local Economy: Will provide nearby recreation oriented enterprises with additional revenue.

NO ROAD

Timber: Will restrict timber management activities.

Improvements: No effect.

Recreation: Will restrict the planned high level of development of the Zilpo site.

Special Uses: No effect.

Wildlife: Will limit opportunities for wildlife habitat development.

Soil: No effect.

Water: No effect.

Fire: Fire suppression would be most difficult with road.

Safety: No effect.

Remoteness: Area would become more remote with impoundment of the lake.

Esthetics: Will limit opportunities for utilization of the area.

Road Costs: Zero.

Future Maintenance: No cost.

Local Economy: No effect.

Mr. COOK. Mr. President, upon an analysis of the alternate roads in the environmental impact statement, one is compelled to conclude that the proposed road and the League of Kentucky Sportsmen's Road have virtually the same comparisons with the only minor differences in several categories. It should be emphasized, however, that both proposals will provide access for optimum utilization of the Zilpo Recreation Area. This is, of course, the entire purpose of any road that is to be built.

Many people, including myself, believe and have pointed out from time to time that several of the so-called adverse effects of the League of Kentucky Sportsmen's Road are subject to interpretation and can be sufficiently refuted. This is particularly true in the categories of timber management, fire prevention, and safety. For instance, the present fire road has been used since 1962 to move timber. This road has been sufficient to remove 4,210 million board feet in the past decade. I wonder how another road can be justified with the previous meager timber management efforts?

The Corps of Engineers estimates 1.2 million people will visit the Zilpo Recreation Area each year. They admit this increased traffic through the Pioneer Weapons Hunting Area "will increase fire risk and will provide poor access along much of the road." But for their proposed route, they believe it "will provide best access for fire control." This seems to be a distortion and misrepresentation. As for the safety predictions, with all the expertise and know-how in the corps, I am surprised they would admit they could not construct a safe road given the resources.

On the opposite side of the coin, the environmental impact statement admits advantages exist as to the League of Kentucky Sportsmen's route. The league route would not eliminate 5 miles of existing hiking trails and one wildlife waterhole. It also would not bisect the Pioneer Weapons Hunting Area adversely affecting its remote qualities.

The issue then left to be resolved and the one most often waved in the faces of opponents to the League of Kentucky Sportsmen's road focuses on the cost of actual construction of a road. But the grounds on which those favoring the proposed road stand appears to be shaky at best. The following explanation will clarify this belief.

Mr. President, a discussion of this point troubles me very much. It concerns the Corps of Engineers attempts which I describe as efforts to torpedo the League of Kentucky Sportsmen's proposal by means of juggling figures.

You will note from the above-mentioned fact sheet of the road alternatives in the environmental statement that the cost of construction of the proposed road is $1,990,000. This is compared to $2,870,000 for the League of Kentucky Sportsmen's road according to the August 1973 environmental impact statement. However, the juggling I refer to comes to light with knowledge that an earlier environmental impact statement dated November 1972 projected a cost of $2,055,000 for the League of Kentucky Sportsmen's road, a $65,000 difference rather than a difference of $880,000 which is now the case.

The additional cost increase of $814,000 has been justified by the corps as a necessary expense to upgrade the presently existing Leatherwood Road, FDR No. 129, which would be used for access to Zilpo if the League of Kentucky Sportsmen's proposal eventually prevails. Yet, the record will show that plans exist at this time to upgrade FDR No. 129 to provide access to a boat ramp that has been already constructed. The fallacy of this whole matter hinges upon the fact that since FDR No. 129 will be upgraded at a cost of $814,000 eventually, it is unfair to assess the additional cost to only the League of Kentucky Sportsmen's road. But of course, if one has made up his mind and never intended to consider a feasible alternative as I believe is the case with the corps, then I can understand this action to eliminate the competition. If justice is to prevail, at the very least the additional cost should be assessed to both road proposals. Thus we again arrive at the $65,000 difference in road costs.

Additionally, I must emphasize that endorsement of my bill by the Congress will allow access to both the Leatherwood boat ramp and the Zilpo recreation area immediately with one road. The proposed road, on the other hand, allows access to Zilpo immediately at a cost of $1,990,000 and eventual access to the Leatherwood ramp at a cost of $814,000.

The above figures are those prepared by the Corps of Engineers. However, an independent analysis of the costs to construct the League of Kentucky Sportsmen's proposal has been made and is cited in a letter from Mr. Reid Love, president of the League of Kentucky Sportsmen, to the Corps of Engineers. I ask unanimous consent that this letter be printed at this point as exhibit 7.

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

EXHIBIT 7

THE LEAGUE OF KENTUCKY SPORTSMEN, INC.,
Franklin, Ky., October 15, 1973.

Col. CHARLES J. FIALA,
District Engineer, Louisville District, Corps of Engineers, Louisville, Ky.

DEAR COLONEL FIALA: The League of Kentucky Sportsmen would like to comment o

the Cave Run Environmental Impact Statement, of August 31, 1973. The League cannot accept your changes of cost on League of Kentucky Sportsmen's proposed access road to the Zilpo Recreation Site. In your original draft you stated a figure of $2,055,000 and now a few months later it becomes $2,870,000 while no other figures change.

The map of our proposed road does not match the Environmental Impact Statement's location of our proposed road. The location of our proposed road was given to your people at two different meetings in Winchester, Kentucky. We feel the Corps of Engineers is not giving us, the sportsmen of Kentucky an honest shake.

Enclosed you will find a map of our proposed road. The following are figures compiled by a Kentucky contractor in the business of constructing roads.

From FS 129 to Zilpo

Concrete culvert	$250,000
Road construction	875,000
Drainage and materials	40,000
Safety equipment (guard rails, etc.)	100,000
Right-of-way clearing	90,000
Up grading of FS 129	210,000
Cost, minimum	1,765,000
Special design requirements not to exceed	500,000
Cost, maximum	2,265,000

Thus our comment is that the Corps of Engineers or any other agency of our government cannot expect respect and cooperation when they run over people by this type of action, where wildlife is destroyed to pay a political debt.

Sincerely yours,

REID LOVE,
President.

Mr. COOK. Mr. President, at the very least these figures submitted by a bona fide contractor suggest that the corps' figures may not be as accurate as we have been led to believe, and that it may be in fact cheaper to build the League of Kentucky Sportsmen's road. I am confident the Congress will resolve this highly contested issue.

Mr. President, even if one grants that some disparity exists between the cost of the two proposals, I am convinced the Corps of Engineers wants to build the easiest road. I maintain that the easiest way is not always the best.

The benefits of maintaining the Pioneer Weapons Hunting Area in a natural state to preserve its remoteness and leave the wildlife habitat undisturbed clearly outweighs any rationalization for not spending additional money if in fact the League of Kentucky Sportsmen's road is determined to be more costly. To say we cannot afford an investment in environmental preservation considering what is at stake in the pioneer weapons hunting area would be a total sham.

I am convinced expeditious consideration of this matter will allow for the opportunity to put all the pieces together for the first time since the controversy began and allow for a just decision on the merits of the respective proposals. For my part, I would like to see the speedy completion of the Zilpo Recreation Area access road over a route that preserves the Pioneer Weapons Hunting Area.

EXHIBIT 8

S. 2851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, no department, agency, or other instrumentality of the United States shall take any action involving the construction, upon or through any of the approximately seven thousand three hundred acres of land comprising the Pioneer Weapons Hunting Area in the Daniel Boone National Forest, Kentucky, of an access road to the Zilpo Recreation Area; except that nothing in this Act shall be construed as precluding the construction of a Zilpo recreation site access road generally on a route extending northward from Forest Development Road No. 129 generally skirting the eastern boundary of the Pioneer Weapons Hunting Area, or as affecting or modifying in any manner the 1962 Cooperative Management Plan between the Department of Fish and Wildlife Resources of the State of Kentucky and the Department of Agriculture.

By Mr. STEVENSON (for himself, Mr. MAGNUSON, Mr. BIBLE, Mr. GRAVEL, Mr. HUGH SCOTT, Mr. ABOUREZK, Mr. BIDEN, Mr. HARTKE, Mr. HUMPHREY, Mr. HART, Mr. ROTH, Mr. JACKSON, Mr. COOK, Mr. STEVENS, Mr. MANSFIELD, Mr. MCINTYRE, Mr. MCGOVERN, Mr. NELSON, Mr. HUDDLESTON, Mr. TUNNEY, Mr. CLARK, and Mr. CRANSTON):

S. 2852. A bill to preserve local air service. Referred to the Committee on Commerce.

Mr. STEVENSON. Mr. President, it is likely the Civil Aeronautics Board will allow the airlines to suspend or severely cut service to many small- and medium-sized cities. The justification will be the shortage of jet fuel, but a careful examination of the problem reveals many of these cuts need not occur.

The root of the problem is the failure of the CAB to announce standards by which to "maximize" and "ration" the air service available to the country.

The CAB's response has been virtually one dimensional—cut service. It has not given careful attention to alternate methods of saving fuel. It has not given careful attention to the air service needs of moderate-sized communities. It has not enunciated principles to guide the airlines in paring their fuel consumption.

There are other ways in which fuel can be saved, for example, by using the most efficient type of aircraft available for a given route, by changing operating procedures and by flying less circuitous routes.

The airlines have found it to be easier and more lucrative to waste fuel and cut the less profitable flights. The "energy crisis" now enables them to trim their route patterns in ways they knew were previously unacceptable.

Among the routes that are likely candidates for elimination are the smaller and medium-sized cities, the 206 cities served by only one certificated airline.

Already local service carriers have filed applications for authority to suspend service to 17 cities, including Wilmington, Del.; South Bend, Ind.; Lima, Ohio; Stillwater, Okla.; and Aberdeen, Wash. It may ultimately prove necessary to deprive some of these cities of their air service. But we should at least guarantee that no city loses its service unnecessarily.

I am, therefore, introducing legislation which would prohibit the CAB from authorizing a local service carrier to suspend, terminate, or reduce by 50 percent or more, air service to any point in a monopoly market unless the carrier shows that it is using the fuel available to it as efficiently as possible, and that such a curtailment is in the public interest.

The CAB must also find that the carrier has first cut back profitable long-haul, trunkline-type flights. We can no longer afford the luxury of allowing the local service carriers to compete on profitable long-haul routes with trunkline carriers. They must use their limited fuel supplies to achieve the purposes specified in their certificates of public convenience and necessity: "To offer short-haul, local or feeder, air transportation service."

The bill also requires a hearing to be held prior to curtailment of service, and gives the affected community a chance to argue its case before the CAB.

We are told that we must respond to an emergency, and, of course, we must. Yet "temporary" service curtailments have a way of becoming permanent. Markets are neatly shared, unprofitable routes are trimmed—regardless of local consequences—and profits increased. We should act to insure that the cuts are made in the public interest.

Mr. President, this bill could not be enacted by the time Congress adjourns. During the adjournment and by January 7, the CAB will act to authorize service curtailments. I believe it is necessary to demonstrate support for these moderate sized cities. This bill is intended to do that.

Mr. CLARK. Mr. President, I join with Senator STEVENSON in cosponsoring this legislation because I believe that air service to small- and medium-sized cities should be maintained whenever possible.

Reductions in fuel for airlines will require adjustment of schedules between now and January 7. These adjustments will entail a sharp cutback in the number of flights. Already carriers have filed with the Civil Aeronautics for authority to delete or suspend service to 17 cities.

Regional carrier service is an essential part of the transportation pattern of many areas. Residents of a number of Iowa cities—Clinton, Dubuque, Ottumwa, Mason City, Sioux City, Waterloo—are dependent on regional carriers.

It is the responsibility of local service carriers—aided by substantial Federal subsidies—to provide air service to small and medium-sized cities not served by trunklines. Yet many of these carriers have been given long-haul routes that duplicate routes served by other carriers. These routes provide greater profits than the shorter flights, but they do not provide essential service.

It may be necessary for regional airlines to cut their flights—but it should not be done before all the alternative methods of cutting fuel consumption are considered.

This bill requires that the CAB look carefully at applications that would result in cutting 50 percent or more of the service to any one city. Before permitting such cuts the CAB would have to determine that the airline is using fuel as efficiently as possible, that trunkline service

has already been cut, and, with the information provided at a public hearing, that the reduction is not detrimental to the public interest.

It is possible that the CAB will consider these criteria when making its decisions in the next few weeks, and if this is done, there will be no need for this legislation. But if some adequate procedure for judging the merits of applications for suspension or deletion of service is not set up, then we should move forward quickly with measures requiring such a procedure.

Mr. ROTH. Mr. President, I am pleased to be a sponsor of the bill to insure that the Civil Aeronautics Board carefully considers the public interest and refrains from precipitous action on requests by airlines to suspend or dramatically curtail vital certificated air service to small- and medium-sized cities.

The bill would require that the CAB make a number of findings, and provide the affected community with notice and an opportunity for a hearing—vital components of due process fairness—before it grants a request by a federally subsidized airline to cut service to a community by 50 percent or more.

In order to permit such a suspension, the CAB would have to find that the airline had used its fuel allocation as efficiently as possible, that the airline had made fair cuts elsewhere in its service pattern, or that the affected community would continue to receive regularly scheduled air carrier service from another certificated carrier.

Mr. President, in November, Eastern and Allegheny Airlines applied to the CAB to terminate service to Wilmington, because of the fuel crisis. These two airlines have rejected offers from the community to assist in developing the great potential of the Wilmington air carrier market. I ask unanimous consent to insert in the RECORD at the conclusion of my remarks a copy of the letter the Delaware congressional delegation has addressed to the CAB in this matter.

Mr. President, already pending before the CAB are previous applications by Eastern and Allegheny to cut service to Wilmington and leave Delaware the only State in the Union without certificated air service. I ask unanimous consent to insert in the RECORD a copy of my statement filed with Administrative Law Judge Faulk, who has been conducting this continuing Wilmington service investigation. The point I made to the court is quite simple: Adequate air service is vital to the economy of a State. The public convenience and necessity will not be served if Delaware is denied such service.

Mr. President, the Senate recently confirmed Lee R. West and Richard J. O'Melia to be members of the Civil Aeronautics Board. With the kind consent of Senators COTTON and CANNON, I was permitted to submit to these nominees written questions. They responded in a most reassuring manner, Mr. President, and I ask unanimous consent that a copy of my questions and the responses of the nominees given before they were confirmed by the Senate be inserted in the RECORD following my remarks.

Basically, Mr. West and Mr. O'Melia agreed with my strong conviction that, first, the Civil Aeronautics Board must insure adequate air service to the Nation's smaller States; second, the CAB, in determining whether to continue air service to a particular point, should look into the degree to which the airlines serving it have made good faith efforts to develop its existing and potential market; third, that satellite airports should be retained; fourth, that CAB decisions should not discriminate against the commerce of the smaller States; and, fifth that air service is vital to communities which wish to attract and retain companies and jobs.

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

U.S. SENATE,
Washington, D.C., December 13, 1973.

HON. ROBERT D. TIMM,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR CHAIRMAN TIMM: It has come to our attention that Eastern Airlines has requested authority to immediately cease all service to the State of Delaware and that Allegheny Airlines is limiting service. Both of these actions are being taken in the name of conserving fuel.

It is our considered view that good air transportation service is vital to the economy of Delaware. The provision of adequate service is a prerequisite to retaining existing companies and jobs in Delaware.

In view of the pending Wilmington Service Investigation conducted by Judge Faulk in which we have made our views known, perhaps you may deem it appropriate to make copies of this letter available to all interested parties. Naturally, you and your colleagues must decide all pending matters before you on the merits.

It has been revealed, by examination of the records of the air carriers, that over 500,000 air travellers and millions of pounds of air cargo originating in and destined to points in Delaware are required to assume the heavy additional burden and cost of moving via the Philadelphia International Airport because of inadequate air service at Wilmington. With the fuel crisis undoubtedly resulting in limitations in available automotive gasoline, the State of Delaware is faced with the plain inability to reach the air transportation system. If we do not have enough gasoline, we certainly cannot waste it on the roads to Philadelphia and add to the congestion and wasted fuel at that airport.

Rather than considering the reduction and elimination of air service at Wilmington in this time of limited energy supply, we urge you and your colleagues to use your existing powers, both formal and informal, to request the air carriers serving Wilmington to provide service at Wilmington's own excellent airport of sufficient volume and quality to permit the effective functioning of our economy during this time of crisis.

Sincerely,

WILLIAM V. ROTH, Jr.,
U.S. Senate.
JOSEPH R. BIDEN, Jr.,
U.S. Senate.
PIERRE S. DU PONT IV,
Member of Congress.

WILMINGTON SERVICE INVESTIGATION, DOCKET No. 25009

(Prepared statement of position of Senator WILLIAM V. ROTH, Jr., Republican of Delaware, U.S. Senator, for presentation to Administrative Law Judge John E. Faulk)

Judge Faulk, I hope that the Civil Aeronautics Board will deny the petitions of Eastern Air Lines, Inc. and Allegheny Airlines, Inc. to suspend service to the Wilmington, Delaware airport.

Far from abandoning air service to Wilmington, these airlines should be increasing and improving service and scheduling. Many Delawareans are acutely aware of the need to improve location and time scheduling at the Wilmington Airport, not only for present users, but also for what appears to be a substantial market of potential air travelers. Local efforts are presently under way to tap this market. A preliminary study suggests that there would be considerable demand for a Washington-Wilmington-New York shuttle flight. Interest has also been expressed in the institution of flights to Chicago and Atlanta from Wilmington. It has been suggested—by attorneys representing the State of Delaware, the County of New Castle, and the Delaware State Chamber of Commerce—that a Wilmington-Atlanta-Houston service could expect perhaps 2000 passengers a week.

Delawareans are gravely concerned about the possible outcome of this service investigation. They hope, as I do, that these hearings will clearly demonstrate, once again, that the deletion of air service to Wilmington would not be in the public interest.

The United States and the State of Delaware have invested $6.47 million in the Wilmington airport in the past 5 years; this investment should not be wasted. Just recently, the Federal Department of Transportation approved a grant of $723 thousand to resurface six taxiways at the Wilmington airport. The terminal building at the airport has a capacity of 700,000 passengers a year; yet its annual use is only about 50,000. I wonder how many of those Delaware residents who now make the drive to Philadelphia airport would use the Wilmington airport if proper air service and scheduling were provided there.

The present Wilmington Service Investigation was adopted by the CAB on May 7, 1973. As CAB Member Robert T. Murphy pointed out in his dissent to that decision, this investigation represents the third time in a little over 7 years that the Delaware parties have been put to the task of defending certificated air services to the only airport in their State.

A CAB decision to continue service would indeed be backed by ample precedent. On September 21, 1970, the CAB denied applications by Allegheny Airlines and Eastern Airlines for authority to temporarily suspend service at Wilmington. In 1967, the CAB found that Allegheny's north-south service to Wilmington, in partial competition with Eastern, should be renewed on a permanent basis. And, in 1965, the CAB denied Eastern Airline's request to terminate its service at Wilmington.

If the present Eastern and Allegheny petitions are granted, Delaware will become the only State in the nation without certificated air service.

Wilmington serves as a reliever airport for Philadelphia and; as Member Murphy pointed out in his dissent, congestion at Philadelphia is imminent, and Wilmington will then have considerable value as a satellite airport.

Twice—once in the 1965 Eastern case, and once in the 1967 Allegheny case—the CAB hearings led to the Board's decision that air service should continue and traffic volumes would improve with improved scheduling. Like Member Murphy, I see no reason for the CAB to alter this view.

Let me add to these economic and administrative arguments that I would certainly oppose any decision as a result of this investigation which would have the effect of discriminating against the commerce of the State of Delaware. Such a result would be grossly unfair to all Delaware residents.

Your Honor, I call upon the Civil Aeronautics Board not only to deny these petitions, but also to investigate ways to improve air service to Wilmington.

STATEMENT OF WILLIAM V. ROTH, JR., U.S. SENATOR, IN SUPPORT OF THE NOMINATIONS OF LEE R. WEST AND RICHARD J. O'MELIA TO BE MEMBERS OF THE CIVIL AERONAUTICS BOARD, NOVEMBER 7, 1973

Mr. President, I support confirmation of Lee R. West and Richard J. O'Melia as Members of the Civil Aeronautics Board. Mr. West, who has served as a district judge in Oklahoma, would replace Robert T. Murphy on the five-member Board, if confirmed, and would serve a full 6 year term. Mr. O'Melia, a lawyer who has served on the staff of the CAB since 1957, would serve the remainder of the term of Secor D. Browne, who has resigned. As this term expires on December 31, 1974, Mr. O'Melia, if renominated, would come up for Senate confirmation again at that time.

I am grateful to Chairman Cannon of the Aviation Subcommittee of the Senate Commerce Committee for affording me the opportunity to propound questions to Mr. West and Mr. O'Melia, both orally and in writing, during their confirmation hearings.

QUESTIONS SUBMITTED BY SENATOR WILLIAM V. ROTH, JR., REPUBLICAN OF DELAWARE, TO CHAIRMAN CANNON OF THE SENATE COMMERCE COMMITTEE FOR WRITTEN RESPONSE BY CIVIL AERONAUTICS BOARD NOMINEES LEE R. WEST AND RICHARD J. O'MELIA, OCTOBER 30, 1973

Mr. O'Melia and Mr. West, I have a keen interest in a matter now pending before the CAB—the Wilmington Service Investigation. I have no intention of soliciting your views on this investigation, since it is possible you will ultimately be called upon to pass on the merits of whatever decision is taken. Nevertheless, I think it a proper exercise of the Senate confirmation function to ask each of you in a general sense these questions:

1. Do you agree that, in order to meet its mandate to serve the public convenience and necessity, the Civil Aeronautics Board must insure adequate air service to the Nation's smaller states?

2. Do you agree that the CAB, in determining whether or not air service should be continued to a particular location, should investigate and evaluate the extent to which the airlines which have been serving that location have made an effort to develop its existing and potential market?

3. Do you agree that, because of substantial projected expansion of passenger enplanements and cargo volume at this country's busiest airports during tht next 30 years, one proper method of helping our airport system meet these increased demands on interstate commerce should be the retention and improvement of satellite airports?

4. Do you agree that the CAB should not take decisions which have the effect of discriminating against the commerce of the smaller states?

5. Do you agree that air service is vital to communities which wish to attract or retain companies and jobs?

ANSWERS BY LEE R. WEST TO QUESTIONS SUBMITTED BY SENATOR ROTH

Question 1. Do you agree that, in order to meet its mandate to serve the public convenience and necessity, the Civil Aeronautics Board must insure adequate air service to the Nation's smaller states?

Answer. Yes.

Question 2. Do you agree that the CAB, in determining whether or not air service should be continued to a particular location, should investigate and evaluate the extent to which the airlines which have been serving that location have made an effort to develop its existing and potential market?

Answer. yes.

Question 3. Do you agree that, because of substantial projected expansion of passenger enplanements and cargo volume at this country's busiest airports during the next 30 years, one proper method of helping our airport system meet these increased demands on interstate commerce should be the retention and improvement of satellite airports?

Answer. Yes—in some circumstances.

Question 4. Do you agree that the CAB should not make decisions which have the effect of discriminating against the commerce of the smaller states?

Answer. Not if it unfairly discriminates.

Question 5. Do you agree that air service is vital to communities which wish to attract or retain companies and jobs?

Answer. Yes.

(NOTE.—Many factors bear on any decision involving these matters. Size, isolation and general economy are certainly included in these.)

ANSWERS BY RICHARD J. O'MELIA TO QUESTIONS SUBMITTED BY SENATOR WILLIAM V. ROTH, JR.

Question No. 1. Do you agree that, in order to meet its mandate to serve the public convenience and necessity, the Civil Aeronautics Board must insure adequate air service to the Nation's smaller states?

Answer. I fully agree. However, in making this affirmation I want to note that the public convenience and necessity criteria for air service are determined in reference to a point or city (including the surrounding population area), and city-pair markets, and not specifically in relation to state boundaries. The interstate system has been developed primarily in relation to actual or potential traffic flows in city-pair markets, including the relationship of such traffic to economic operations. For subsidized service at a point which, but for subsidy, would not receive air service additional factors traditionally considered are isolation, subsidy cost, and actual or potential patronage in relation to subsidy cost. Of course, any party is free to advance other criteria for determining need, and the hearing and adjudicatory process permits such claims to be evaluated by the Board in the context of an evidentiary record. I note in particular that there is nothing in the Act to prohibit the Board from considering service to a state in determining the need for service.

Question No. 2. Do you agree that the CAB, in determining whether or not air service should be continued to a particular location, should investigate and evaluate the extent to which the airlines which have been serving that location have made an effort to develop its existing and potential market?

Answer. My answer is clearly in the affirmative. As a matter of fact, parties to Board proceedings frequently present forecasts and other factual evidence, together with arguments, that traffic growth has been hindered because of the lack of development and promotional efforts on the part of the airlines serving the point. Moreover, the Board has, in some of its decisions, declined to delete air service on that ground, among others. This, of course, is not to say that in determining the weight to be given to such a factor, the Board should fail to take into account all other factors relating to the need for service, including economic consideration.

Question No. 3. Do you agree that, because of substantial projected expansion of passenger enplanements and cargo volume at this country's busiest airports during the next 30 years, one proper method of helping our airport system meet these increased demands on interstate commerce should be the retention and improvement of satellite airports?

Answer. In general, my answer is yes. However, the question of satellite airport service is very complex and, accordingly, limits the validity of a generalized response. In California satellite airport service has been expanding since the early 1960's. In Chicago, however, the Board's efforts to encourage the use of Midway for some years have not been exceptionally successful. Of course, if a main airport is in fact saturated, and additional traffic growth can only be accommodated at satellite airports, the carriers themselves generally seek to serve satellite airports. On the other hand, if this is not the case, the lack of high frequency and multidestination service tends to make the main airport so attractive to passengers that the satellite airport cannot sustain economic service. The facts of any satellite airport situation would therefore have to be evaluated at any given point in time to determine whether it is desirable to take steps to encourage the use of a given facility as a satellite airport to a main airport.

Question No. 4. Do you agree that the CAB should not take decisions which have the effect of discriminating against the commerce of the smaller states?

Answer. I agree that the Board should not, in applying the statutory and discretionary policies described in Answer No. 1, above, discriminate against the commerce of any state. This does not mean, however, that the Board should necessarily give overriding weight to service to a state, in contradistinction to evaluating the service requirements of a point or city plus its surrounding population area in the absence of some compelling argument as described in Answer No. 1.

Question No. 5. Do you agree that air service is vital to communities which wish to attract or retain companies and jobs?

Answer. Yes. The availability of convenient air service is vital to any community in attracting and retaining industry and related employment. There are, of course, situations where a city receives fully satisfactory (and sometimes superior) air service on an economic basis at a nearby airport, whereas economic service cannot be provided at its own airport. This possibility must be kept in mind in fully considering the best interests of both a particular community and the area in which it is situated. Again, the answer to this question turns on the various considerations set forth in Answer No. 1, above.

By Mr. CRANSTON (for himself, Mr. JAVITS, and Mr. WILLIAMS):

S. 2854. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic and Digestive Diseases in order to advance a national attack on arthritis. Referred to the Committee on Labor and Public Welfare.

THE NATIONAL ARTHRITIS ACT

Mr. CRANSTON. Mr. President, the cause of arthritis, the disease that affects over 50 million Americans, and results in severe pain and disability for more than 20 million Americans, is little understood.

We do not now have the capability to cure this widespread and serious disease problem. * * * And we do not now have the capability to prevent this widespread and serious disease problem.

Mr. President, there is an urgent need for a national campaign against arthritis and other related musculoskeletal diseases. I introduce today with the distinguished Senator from New York (Mr. JAVITS) the ranking minority member of the Labor and Public Welfare Committee and the distinguished chairman of that committee (Mr. WILLIAMS), the "National Arthritis Act," a bill to expand

the authority of the NIAMDD in order to advance a national attack on arthritis.

Before describing the provisions of the proposed National Arthritis Act, I would like to talk briefly about arthritis, and about the economic cost to the Nation that results from this disease.

WHAT IS ARTHRITIS?

Arthritis is a blanket term covering more than 80 forms of diseases that attack the joint and connective tissues of the body. Over 50 million Americans have some form of arthritis. The two most common forms of arthritis are rheumatoid arthritis and osteoarthritis.

RHEUMATOID ARTHRITIS

Rheumatoid arthritis affects about 5 million people in the United States today, and is the most devastating and crippling form of arthritis.

It is a chronic disease that leads to permanent joint deformities and lifelong disability. Rheumatoid arthritis is especially insidious because it can also damage other organs, such as the eyes, heart, and lungs.

The majority of the victims of rheumatoid arthritis are young and middle-aged adults in their most productive years, between 20 and 45 years of age. Women, particularly, are victims of this disease, with an incidence triple that of men.

The cause of rheumatoid arthritis is unknown, Mr. President. Although currently available therapy and surgical techniques for improving the functional state of millions of arthritics are significantly more effective than those of a decade ago, they remain stopgap measures which neither prevent nor cure the disease.

Children are also a major and often overlooked factor in arthritis. Juvenile rheumatoid arthritis is estimated to afflict about 250,000 children in the United States. As in the case of cancer and heart conditions, when the chronic disease of arthritis strikes a child it can often be much more severe than an adult case. Juvenile rheumatoid arthritis can stunt growth, blind, cripple, deform, and disable, and, of course, it can kill since it is a systematic disease.

OSTEOARTHRITIS

Osteoarthritis is the most common form of arthritis. About 10 million Americans have osteoarthritis severe enough to cause painful problems severely affecting their ability to function fully as a member of society. Osteoarthritis is associated with aging and degeneration of joint tissues. It usually develops more slowly and, in comparison to the severity of rheumatoid arthritis, is milder and less painful, although it can in its later stages produce extreme pain and disability.

The cause of osteoarthritis is unknown. Treatment is directed at easing the pain of osteoarthritis, and protecting osteoarthritic joints from stress. As in the treatment of rheumatoid arthritis, orthopedic surgery has made great inroads as a procedure to correct damaged joints.

GOUT AND OTHER FORMS

Among other common forms of arthritis are gout, and many chronic joint disorders associated with overexertion, such as "tennis elbow," "football knee," and other "sports" ailments afflicting both weekend and professional athletes, as well as similar ailments characteristic of certain occupations, such as coal mining, the construction industry, farming, and others.

COSTS TO ECONOMY

In economic terms, the cost to the Nation that results from arthritis is staggering.

Arthritis accounts for nearly 10 percent of those receiving aid to the permanently and totally disabled, approximately 110,000 persons, which cost the Government $132,131,600 in 1970.

Medical care bills and lost wages from arthritis in 1970, totaled $9.2 billion. Over 14.5 million workdays were lost in 1970 due to disability caused by arthritis. And in the United States today, 1 of every 5 persons between the ages of 45 and 64—prime wage-earning years—is afflicted with arthritis.

While the monetary incentive to most individuals with arthritis works to encourage them to remain on the job as long as possible, the intense pain and physical limitations on their movement has forced some 138,000 workers disabled by arthritis to retire on disability at less than $200 a month. The annual cost to the Nation for these payments is $316 million in social security disability insurance.

NEEDS IN ARTHRITIS RESEARCH

A national committee composed of leading rheumatologists, orthopedic surgeons, and other leaders in the medical professions, developed a list of major research goals in the study of arthritis and related diseases, in a report made to the Arthritis Foundation in 1972.

The report began by stating that the initial step must be to find the underlying mechanisms which cause the disease, and recommended five major targets in accomplishing this. They are:

First. Identification of a possible viral agent as the cause of arthritis.

Second. Pinpointing the involvement of the immune system in the chain reaction processes of rhemumatoid arthritis.

Third. Clarification of the mechanisms of inflammation, the first major manifestation of most forms of arthritis.

Fourth. Broadening of techniques for joint replacement, by design of joints other than the hip and experimentation with new materials.

Fifth. Epidemiological studies of rheumatoid arthritis, systematic lupus, and osteoarthritis to compare characteristics of arthritis populations to those of non-arthritics, and to explain increased mortality rates in people with rheumatoid arthritis.

Another major target of research, Mr. President, is that of treatment of arthritis. A major effort needs to be undertaken in finding a successful drug therapy, as well as further research into surgical procedures which can reconstruct joints damaged by arthritis.

NEED FOR ARTHRITIS SCREENING, DETECTION, AND CONTROL PROGRAMS

Despite the widespread incidence of arthritis and our current inability to alleviate its pain and crippling effects, there have been a few pulses in treatment of arthritic conditions. One is successful treatment of gout—a common form of arthritis. Another is the promise held out by surgical procedures. Major advances have also been made in diagnosis of arthritis. And acupuncture for certain types of arthritis looks very promising as a therapy.

Much more needs to be done, however. The effects of physical measures and corrective exercises in interrupting the development of deformities and in correcting those already present must be evaluated in a systematic manner.

New scientific developments bring promise of effective screening programs to identify individuals with a susceptibility to developing arthritis. Early intervention in some forms of arthritis can alleviate the damage done by this disease. Better methods of identifying high risk individuals will result in more patients entering treatment programs, and providing a broader data base upon which to record remissions and exacerbations. This data can provide critically needed information on the natural history of these diseases and enable the medical community to evaluate the results of various treatment regimens.

NEED FOR TRAINING OF HEALTH PROFESSIONALS

To carry out these programs effectively, a broad range of health professionals need to be trained in the various disciplines involved in total treatment and rehabilitation programs for the arthritic patient. During training in the schools of the health professions, medical students should be made aware of the symptoms and treatment of arthritis and of the effectiveness of early treatment and therapy; postgraduate physicians should be trained in rheumatology, orthopedics, and rehabilitation.

Complex emotional and vocational problems, resulting from chronic disability, often require the attention of psychologists, social workers, vocational specialists, and, of course, there is a great need for physical therapists and occupational therapists in a comprehensive treatment program of an arthritic patient. In addition the family physician should be kept up to date on new treatment procedures and screening devices through continuing education programs.

In the overall management of the disease, all these specialists must work in close cooperation with each other if best results are to be achieved.

PROVISIONS OF THE LEGISLATION

The proposed National Arthritis Act, Mr. President, provides for the establishment of a task force to develop a national arthritis plan. The plan will include recommendations for utilization and organization of national resources in the campaign against arthritis, and a program for the National Institute of Arthritis, Metabolism, and Digestive Diseases.

As a result, arthritis research will have the potential to proceed, on a national scale, in an orderly fashion under a master plan, pointing out the areas to be pursued, the existing resources with which such activities can be undertaken,

and the additional resources which are needed. Also, the arthritis plan will provide a targeted approach to reach specific goals.

The proposed legislation also establishes the position of Associate Director for Arthritis within the NIAMDD, who is given the responsibility of administering programs with regard to arthritis within that Institute.

Two committees are established which will insure that all Federal activities related to arthritis will benefit from the knowledge and experience gained in the various Federal programs having responsibilities in this area. These are the Interinstitute Arthritis Coordinating Committee at the National Institutes of Health, which will coordinate the work of the various Institutes relating to arthritis, and the Interagency Technical Committee on Arthritis, which will promote the coordination of all Federal health programs relating to arthritis.

The proposed "National Arthritis Act" also provides for the establishment of an arthritis screening, early detection, and control program, and national research and demonstration centers.

The screening, early detection, and control program provisions direct the director of the NIAMDD, after consultation with the Institute's National Advisory Council and consistent with the task force arthritis plan, to establish programs with other health entities—Federal, State, and nonprofit private—in screening diagnosis and treatment of arthritis.

We do not presently have the capability to cure or prevent arthritis. Thus, the screening, early detection, and control program—directed at improved diagnostic and treatment techniques—is crucial. Early detection of arthritis can save years of pain and disability through early treatment.

The director is also directed to develop research and demonstration centers, after consultation with the National AMDD Advisory Council and consistent with the task force arthritis plan.

The centers will provide an opportunity for intensive, interdisciplinary arthritis research and also training in, and demonstration of, advanced diagnostic, prevention, treatment, and control methods for arthritis.

To carry out the screening, early detection, and control program, there is authorized to be appropriated $5 million for fiscal year 1975, $10 million for fiscal year 1976, and $25 million for fiscal year 1977.

To develop the research and demonstration centers, there is authorized to be appropriated $10 million for fiscal year 1975, $15 million for fiscal year 1976, and $20 million for fiscal year 1977.

These appropriations authorizations are intended to be an augmentation of the presently funded NIAMDD grant program for intra- and extra-mural research and training related to arthritis, and are not to be considered as justification for reducing support to currently supported activities.

There are other critical activities supported by the National Institute of Arthritis, Metabolism, and Digestive Diseases, which I believe should continue to receive priority attention. Although this act is intended to meet the need for greater visibility and attention to research in methods of detection, treatment, and rehabilitation of arthritis, I do not believe such augmentation should be at the expense of the other important concerns of the Institute.

There is a close relationship between rheumatology and orthopedic surgery in the treatment of arthritis. I would hope this association could be strengthened and the potential contributions of each specialty be thoroughly explored in developing improved treatment and rehabilitation methods.

CONCLUSION

Mr. President, Dr. Kerr White, in an article introducing a special issue of Scientific American devoted to the topic "Life and Death and Medicine," September 1973, notes that—

We should recognize that society is increasingly concerned with the problems of living, the quality of life and the burden of disability, distress and dependency.

The National Arthritis Act is directed at a disease problem that cuts viciously into the quality of life of 20 million Americans. When enacted and fully implemented, this act can help improve the lives of pain and disability for these 20 million Americans.

It can mean a future with prospects for full participation in everyday activities without the constant frustration of immobile joints and limitations on movement.

Mr. President, I request unanimous consent that a section-by-section analysis of the proposed legislation, as well as the full text of the bill be included at this point in the RECORD.

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

SECTION-BY-SECTION ANALYSIS

Section 1. Establishes the title of the proposed Act as the "National Arthritis Act".

Section 2. Sets forth twelve findings and declarations by the Congress with respect to: the severity and prevalence of arthritis; the cost of arthritis to the national economy; the need for improved treatment, diagnostic procedures; training, and research in arthritis; the need for facilities with properly trained personnel to provide treatment and rehabilitation for persons suffering from arthritis; the need for public education programs; and the special potential and unique ability of the National Institute of Arthritis, Metabolic, and Digestive Diseases (NIAMDD) to play a major role in a national attack on arthritis.

Section 3. Amends Part D of title IV of the Public Health Service Act by adding new sections 435 through 439.

New Section 435 Subsection (a) directs the Secretary of Health, Education, and Welfare, to establish, within 60 days of enactment of the proposed National Arthritis Act, a National Task Force on Arthritis to formulate a long-range Arthritis Plan to combat arthritis. Specifies that the Plan shall include recommendations for the utilization and organization of national resources for the campaign against arthritis and a program for the NIAMDD to act as a major participant in the campaign against arthritis.

Subsection (b) of the new section 435 directs that the Arthritis Plan shall provide for investigation in the epidemiology and etiology of arthritis; research in the basic biological processes and mechanisms underlying arthritis, and in techniques of diagnosis, early detection, treatment, and prevention of arthritis, programs to evaluate and demonstrate preventive, diagnostic, therapeutic, rehabilitative, and control approaches to arthritis; programs for the education and continuing education of scientists, bioengineers, clinicians, other health and allied health professionals, and educators in the fields and specialties relating to arthritis; programs for public education relating to arthritis; the development of a common descriptive vocabulary in arthritis basic and clinical research; the development of a national data storage bank on arthritis research, diagnosis, and treatment; and a plan for international cooperation in and exchange of knowledge on all aspects of research, diagnosis, treatment, and prevention of arthritis.

Subsection (c) of the new section 435—provides that the membership of the Task Force shall consist of the Secretary or his designee, the Director of the National Institutes of Health or his designee, the Associate Director for Arthritis (established by the proposed Act) the Chief Medical Director of the Veterans Administration, and the Secretary of Defense or his designee, as ex officio members, and seven arthritis-oriented scientists or physicians (of whom at least 2 shall be practicing clinical rheumatologists), three representatives of the general public (of whom at least two are arthritis sufferers); and one member of the National Advisory Council of the Institute.

Subsection (d) of the new section 435 directs the Secretary to designate one member of the Task Force as Chairman, and provides that the Task Force shall first meet at the call of the Secretary and thereafter at the call of the chairman, and directs that the Task Force shall meet not less than three times.

Subsection (e)(1) of the new section 435 requires the Task Force to publish and transmit the Arthritis Plan to the Director of the Institute not later than nine months after the date of enactment of the new section.

Subsection (e)(2) of the new section 435 requires that, not later than 60 days after the Task Force transmits the Arthritis Plan to the Director, the Director shall submit the Plan to Congress with his proposals for Institute activities for the first five years under the Arthritis Plan, and an estimate of the additional staff and appropriations needed to carry out such activities. Provision is included that if the Plan is submitted for review by any Federal agency, the plan or report submitted to Congress shall specify any changes and the reasons for them made during any such review process, and, if review of the Plan delays its submission to Congress, the plan shall be submitted to Congress in the form it was submitted to such review process by the time specified in the new section 435.

Subsection (f) of the new section 435 authorizes the Task Force to hold hearings, take testimony, and sit and act at such times and places as the Task Force deems advisable in order to develop the Arthritis Plan.

Subsection (g) of the new section 435 directs the Director of the Institute to designate a member of the staff of the Institute to act as Executive Secretary of the Task Force and to provide the Task Force with such staff and information and the services of consultants as may be necessary to assist the Task Force to carry out its functions.

Subsection (h) of the new section 435 authorizes appropriate travel and a GS–18 rate of per diem compensation for members of the Task Force who are not officers or employees of the Federal Government.

Subsection (i) of the new section 435 authorizes the appropriation of $500,000 for

Fy 1974 and FY 1975 to carry out the purposes of new section 435 and specifies that the sums shall remain available until expended and are in addition to amounts appropriated for arthritis research pursant to tne general appropriation to the NIAMMDD.

New section 436—Subsection (a) establishes, in the Institute, the position of Associate Director for Arthritis, who shall report to the Director of the Institute, and be responsible for programs with regard to arthritis within such Institute (including those carred out under preexisting NIAMDD authority).

Subsection (b) of the new section 436 directs the establishment of an Inter-Institute Arthritis Coordinating Committee composed of representatives of each of the Institutes and divisions involved in arthritis related research, to be chaired by the Associate Director for Arthritis. The Committee is to prepare an annual report for the Director of the National Institutes of Health detailing the work of the committee in coordinating the research activities of NIH relating to arthritis during the preceding year.

Subsection (c) (1) of the new section 436 establishes an Interagency Technical Committee on Arthritis which shall be responsible for promoting the coordination of Federal health programs and activities relating to arthritis.

Subsection (c) (2) of the new section 436 provides that the Director of the Institute and the Associate Director for Arthritis shall serve as chairman and cochairman respectively of the Committee and that the Committee shall include appropriate health official representation from the Veterans Administration, the Department of Defense, and all other Federal agencies with programs involving health functions or responsibilities, as determined by the Secretary.

Subsection (c) (3) of the new section 436 provides that the Interagency Technical Committee shall meet at the call of the Chairman, but not less often than four times a year.

New section 437. Subsection (a) provides for the establishment of arthritis screening, early detection, and control programs, in cooperation with other Federal health agencies, State, local, and regional public health agencies, and non-profit private health agencies.

Subsection (b) of the new section 437 specifies the activities which may be included under such programs.

These include:

(1) programs to develop improved methods of detecting individuals with a risk of developing arthritis;

(2) programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing arthritis;

(3) programs to develop health professions and allied health professions personnel highly skilled in the control of arthritis including continuing education of such personnel;

(4) community consultative services to facilitate new and problem patient referral from local hospitals and physicians to Arthritis Consultation Boards of the centers for diagnostic workup, including laboratory analyses, and consultations with primary physicians on preferred rehabilitation management; and

(5) programs to disseminate the results of research and to develop means of standardizing patient data and recordkeeping.

Subsection (c) of the new section 437 provides that programs supported under new section 437 may also carry out projects and programs funded under other provisions of law related to programs and projects authorized under new section 437.

Subsection (d) of the new section 437 authorizes the appropriation of $5,000,000 for fiscal year 1975, $10,000,000 for fiscal year 1976 and $15,000,000 for fiscal year 1977 to carry out section 437, and specifies that such authorizations are in addition to sums appropriated for arthritis research pursuant to the general appropriation to the NIAMDD.

New Section 438. Subsection (a) directs the development of centers for basic and clinical research into, training in, and demonstration of advanced diagnostic, control, and treatment methods for arthritis, including research into implantable biomaterials and orthopedic procedures; and authorizes cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing or strengthening, and providing basic operating support for, existing or new such centers.

Subsection (b) of new section 438 directs that centers developed under new section 438, in addition to carrying out research, training, and demonstration projects, shall carry out screening, detection, and control programs, as described in new section 437, and specifies that funds under new section 438 may be used for staffing and other basic operating costs, including such patient care costs as are required for research training; training for allied health professions personnel; demonstration purposes; and certain renovation of buildings and structures to the extent necessary to make them suitable for use as research and demonstration centers. Specifies that support may be for a period of not to exceed three years and may be extended for additional periods of up to three years each.

Subsection (c) of the new section 438 provides that centers supported under new section 438 may also carry out projects and programs funded under other provisions of law related to programs and projects authorized under the new section 438.

Subsection (d) of the new section 438 authorizes the appropriation of $10,000,000 for fiscal year 1975, $15,000,000 for fiscal year 1976, and $20,000,000 for fiscal year 1977 to carry out section 438, and specifies that such authorizations are in addition to sums appropriated for arthritis research pursuant to existing research authorities of the Public Health Service Act.

New Section 439 directs the Director of the Institute to submit an annual report to the President and to Congress which report shall include a proposal for the Institute's activities under the Arthritis Plan for the succeeding five years with an estimate of additional appropriations and staff positions, including increased appropriations authorizations, as may be required to pursue activities and a program evaluation of the activities of the Institute during the preceding calendar year, as measured against the proposal for that year for activities under the Arthritis Plan.

S. 2854

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 "National Arthritis Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2 (a) The Congress hereby finds and declares that—

(1) arthritis and related musculoskeletal and other related diseases represent one of the most serious and widespread health problems in the United States in that they afflict more than twenty million Americans;

(2) arthritis is the greatest single cause of chronic pain and disability;

(3) the complications of arthritis lead to many other serious health problems;

(4) uncontrolled arthritis significantly decreases the quality of life and has a major negative economic, social, and psychological impact on the families of its victims and society generally;

(5) the severity of arthritis in children and most adolescents is greater than in adults and this involves greater problems in the management of the disease;

(6) athletic and other types of joint injuries can lead to arthritis;

(7) the annual cost to the national economy in 1970 due to arthritis, in medical care bills and lost wages, was $9,200,000,000;

(8) the workdays lost due to disability caused by arthritis totaled over 14,500,000 in 1970;

(9) although today's currently available therapy and surgical techniques for improving the functional state of millions of arthritics are significantly more effective than those of a decade ago, they remain stopgap measures which neither prevent nor cure the disease; and therefore the attainment of better methods of diagnosis and treatment of arthritis through research and through education of health professionals and allied health professionals deserves the highest national priority;

(10) there are inadequate numbers of medical facilities and of properly trained personnel to provide treatment and rehabilitation for persons suffering from arthritis, and inadequate numbers of properly trained personnel to train other health personnel interested in pursuing either a research or clinical career in rheumatology;

(11) the citizens of the United States should have a full understanding of the nature of the human, social, and economic impact of arthritis and should be encouraged to seek early diagnosis and treatment to prevent or lessen disability resulting from arthritis; and

(12) there is great potential for making major advances against arthritis in the National Institute of Arthritis, Metabolism, and Digestive Diseases, in concert with other Institutes of the National Institutes of Health, and public and private organizations capable of necessary research and public education in arthritis.

(b) It is therefore the purpose of this Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

NATIONAL ARTHRITIS PROGRAM

SEC. 3. Part D of title IV of the Public Health Service Act is amended by adding after section 434 the following new sections:

"NATIONAL TASK FORCE ON ARTHRITIS

"SEC. 435. (a) The Secretary, within sixty days after the date of enactment of this section, shall establish a National Task Force on Arthritis (hereinafter in this part referred to as the 'Task Force') to formulate a long-range plan (hereinafter in this part referred to as the 'Arthritis Plan') to combat arthritis and related musculoskeletal and other related diseases (hereinafter in this part referred to as 'arthritis'). The Arthritis Plan shall include recommendations for the utilization and organizations of national resources for the campaign against arthritis, and a program for the National Institute of Arthritis, Metabolism, and Digestive Diseases (hereinafter in this part referred to as the 'Institute') as a major participant in the campaign against arthritis.

"(b) The Arthritis Plan developed by the Task Force shall provide for—

"(1) programs for investigation into the epidemiology, etiology, and prevention and control of arthritis, including investigation into the social, environmental, behavioral, nutritional, biological, and genetic determinants and influences involved in the epidemiology, etiology, prevention, and control of arthritis;

"(2) studies and research into the basic biological processes and mechanisms involved in the underlying normal and abnormal phe-

nomena associated with arthritis, including, but not limited to, abnormalities of the immune, musculoskeletal, cardiovascular, and nervous systems, the skin, the gastrointestinal tract, the kidneys, the lungs, and the eyes;

"(3) research into the development, trial, and evaluation of techniques, including surgical procedures and drugs, used in, and approaches to, the diagnosis, early detection, treatment, prevention, and control of arthritis;

"(4) establishment of programs that will focus and apply scientific and technological methodologies and processes involving biological, physical, and engineering science to deal with all facets of arthritis, including traumatic arthritis;

"(5) establishment of programs for the conduct and direction of field studies, large-scale testing, evaluation, and demonstration of preventive, diagnostic, therapeutic, rehabilitative, and control approaches to arthritis, including studies of the effectiveness of home-care programs, the use of mobile care units, community rehabilitation facilities, and other appropriate community public health and social services;

"(6) studies of the feasibility and possible benefits accruing from team training of health and allied health professionals in the treatment and rehabilitation of individuals suffering from arthritis;

"(7) programs to evaluate the current resources for the rehabilitation of the arthritis patient and establish criteria for the potential for rehabilitation of the patient;

"(8) programs to investigate alternative screening possibilities to define more adequately the arthritis population and to detect early cases of rehabilitative arthritis;

"(9) programs for the education and training of scientists, bioengineers, clinicians, surgeons, including orthopedic surgeons, and other health and allied health professionals and educators in the fields and specialties requisite to the conduct of programs regarding arthritis;

"(10) programs for the continuing education of health and allied health professionals in the diagnosis, treatment, and rehabilitation of individuals suffering from arthritis;

"(11) programs for public education relating to all aspects of arthritis;

"(12) programs to establish standards of measurement of the severity of disabilities resulting from arthritis;

"(13) the development of a common descriptive vocabulary in basic and clinical research in arthritis for the purpose of standardizing collection, storage, and retrieval of research and treatment data to facilitate collaborative and comparative studies of large patient populations;

"(14) the development of a national data storage bank on arthritis research, diagnosis, prevention, control, and treatment to collect and make available information as to the practical application of research and other activities pursuant to this part; and

"(15) a plan for international cooperation in and exchange of knowledge on all aspects of research, diagnosis, treatment, prevention, and control of arthritis.

"(c) The Task Force shall be composed of sixteen members who are eminently qualified to serve on such Task Force, as follows:

"(1) the Secretary or his designee, the Director of the National Institutes of Health or his designee, the Associate Director for Arthritis of the Institute (as established by section 436), the Chief Medical Director of the Veterans Administration, and the Secretary of Defense or his designee, who shall serve as ex officio members;

"(2) seven members who shall be scientists or physicians representing the various specialties and disciplines pertinent to arthritis, of whom at least two are practicing clinical rheumatologists;

"(3) three members from the general public, of whom at least two are arthritis sufferers; and

"(4) one member of the National Arthritis, Metabolism, and Digestive Diseases Advisory Council (hereinafter referred to as the National Advisory Council) whose primary interest is in the field of rheumatology.

"(d) The Secretary shall designate one member of the Task Force as Chairman of the Task Force. The Task Force shall first meet at the call of the Secretary, and thereafter at the call of the Chairman of the Task Force, and shall meet not less than 3 times.

"(e)(1) The Task Force shall publish and transmit to the Director of the Institute the Arthritis Plan not later than nine months after the date of enactment of this section.

"(2) Not later than sixty days after the Task Force transmits the Arthritis Plan to the Director of the Institute, the Director shall submit to Congress the Arthritis Plan, his proposals for Institute activities under this part for the first five years under the Arthritis Plan, and an estimate of such additional staff positions and appropriations (including increased appropriations authorizations) as may be required to carry out such activities. If the plan and subsequent reports to be submitted pursuant to subsections (e) (1) and (2) of this section are submitted, prior to submission to the Congress, for review by the Office of Management and Budget or any other Federal department or agency or official thereof, (1) the plan or report submitted to the Congress shall specify the changes and the reasons therefor made during any such review process, and (2) if any such review process delays the submission of such plan or report to the Congress beyond the date established for such submission by this section, the Director shall immediately on such date submit to the Congress the plan or report in exactly the form it was submitted to such review process.

"(f) The Task Force may hold such hearings, take such testimony, and sit and act at such times and places as the Task Force deems advisable to develop the Arthritis Plan.

"(g) The Director of the Institute shall—

"(1) designate a member of the staff of such Institute to act as Executive Secretary of the Task Force; and

"(2) provide the Task Force with such full-time professional and clerical staff, such information, and the services of such consultants, as may be necessary to assist the Task Force to carry out effectively its functions under this section.

"(h) Members of the Task Force who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Task Force compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(i) In addition to sums appropriated pursuant to section 301 and other sums appropriated for research on arthritis pursuant to title IV, part D, there is authorized to be appropriated $500,000 for the fiscal year ending June 30, 1974, and June 30, 1975, to carry out the purposes of this section, and such sums shall remain available until expended.

"ASSOCIATE DIRECTOR FOR ARTHRITIS AND ESTABLISHMENT OF COMMITTEES

"Sec. 436. (a) There is established within the Institute the position of Associate Director for Arthritis (hereinafter in this part referred to as the 'Associate Director'), who shall report directly to the Director of such Institute and who, under the supervision of the Director of such Institute, shall be responsible for programs regarding arthritis within such Institute.

"(b) In order to improve coordination of the total National Institutes of Health research activities relating to arthritis, the Director of the National Institutes of Health shall establish an Inter-Institute Arthritis Coordinating Committee to be composed of representatives who can make policy commitments for each of the Institutes and divisions involved in arthritis-related research. The committee will be chaired by the Associate Director and will prepare a report as soon (but not later than 60 days) after the end of each fiscal year as possible for the Director of the National Institutes of Health detailing the work of the committee in coordinating the research activities of the National Institutes of Health relating to arthritis during the preceding year.

"(c)(1) There is established within the Federal Government an Interagency Technical Committee on Arthritis which shall be responsible for promoting the coordination of those aspects of all Federal health programs and activities relating to arthritis to assure the adequacy and technical soundness of such programs and activities and to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

(2) The Director and Associate Director for Arthritis of the Institute shall serve as chairman and co-chairman, respectively, of such Committee, and such Committee shall include representation from the Veterans Administration, the Department of Defense, and all other Federal departments and agencies administering programs involving health functions or responsibilities as determined by the Secretary.

"(3) The Committee shall meet at the call of the chairman, but not less often than four times a year.

"ARTHRITIS SCREENING, EARLY DETECTION, PREVENTION, AND CONTROL PROGRAMS

"Sec. 437. (a) The Director of the Institute under policies established by the Director of the National Institutes of Health, and after consultation with the National Advisory Council and consistent with the Arthritis Plan, shall establish programs as necessary for cooperation with other Federal health agencies, State, local, and regional public health agencies, and nonprofit private health agencies, in the screening, detection, prevention, and control of arthritis which emphasize the development of new diagnostic and treatment methods for arthritis, and the dissemination of the knowledge about these methods to the health professions.

"(b) Screening, detection, prevention, and control programs under this part shall include—

"(1) programs to develop improved methods of detecting individuals with a risk of developing arthritis;

"(2) programs to develop improved methods of intervention against those factors which cause individuals to have a high risk of developing arthritis;

"(3) programs to develop health professions and allied health professions personnel highly skilled in the control of arthritis, including continuing education of such personnel;

"(4) community consultative services to facilitate new and problem patient referral from local hospitals and physicians to Arthritis Consultation Boards of the centers for diagnostic workup, including laboratory analyses, and consultations with primary physicians on preferred rehabilitation management; and

"(5) programs to disseminate the results

of research and to develop means of standardizing patient data and recordkeeping.

"(c) The programs supported under this section may also carry out projects and programs funded under other provisions of law related to the programs and projects authorized under this section.

"(d) In addition to sums appropriated pursuant to section 301 and other sums appropriated for research on arthritis pursuant to title IV, part D, there is authorized to be appropriated to carry out this section $5,000,000 for the fiscal year ending June 30, 1975, $10,000,000 for the fiscal year ending June 30, 1976, and $15,000,000 for the fiscal year ending June 30, 1977.

"NATIONAL ARTHRITIS RESEARCH AND DEMONSTRATION CENTERS

"SEC. 438. (a) The Director of the Institute, under policies established by the Director of the National Institutes of Health, and after consultation with the National Advisory Council and consistent with the Arthritis Plan, will provide for the development of centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, control, and treatment methods for arthritis, including research into implantable biomaterials and orthopedic procedures; and may enter into cooperative agreements with public or nonprofit private agencies or institutions to pay all or part of the cost of planning, establishing or strengthening, and providing basic operating support for, existing or new such centers.

"(b) The centers developed under this section shall, in addition to carrying out research, training, and demonstration projects, carry out screening, detection, prevention, and control programs, as described under subsection (b) of section 437. Funds paid to centers under this section may be used for—

"(1) staffing and other basic operating costs, including such patient care costs as are required for research;

"(2) training, including training for allied health professions personnel;

"(3) demonstration purposes; and

"(4) the extension, alteration, remodeling, improvement, or repair of buildings and structures (including the provision of equipment) to the extent necessary to make them suitable for use as research and demonstration centers.

Support of a center under this subsection may be for a period of not to exceed three years and may be extended by the Director of the Institute, with the approval of the National Advisory Council, for additional periods of up to three years each.

"(c) The centers supported under this section may also carry out projects and programs funded under other provisions of law related to the programs and projects authorized under this section.

"(d) In addition to sums appropriated pursuant to section 301 and other sums appropriated for research on arthritis pursuant to title IV, part D, there is authorized to be appropriated to carry out this section $10,000,000 for the fiscal year ending June 30, 1975, $15,000,000 for the fiscal year ending June 30, 1976, and $20,000,000 for the fiscal year ending June 30, 1977.

"ANNUAL REPORTS

"SEC. 439. The Director of the Institute shall, as soon as practicable, but not later than sixty days, after the end of each calendar year, prepare, in consultation with the National Advisory Council, and submit to the President and to the Congress a report. Such report shall include (1) a proposal for the Institute's activities under the Arthritis Plan under this part and other provisions of law during the next five years, with an estimate for such additional staff positions and appropriations (including increased appropriations authorizations) as may be required to pursue such activities, and (2) a program evaluation section, wherein the activities and accomplishments of the Institute during the preceding calendar year shall be measured against the Director's proposal for that year for activities under the Arthritis Plan.".

Mr. JAVITS. Mr. President, I am proud to join with Senator CRANSTON and Senator WILLIAMS in the development and introduction of the "National Arthritis Act."

According to the most recent statistics, approximately 20,000,000 Americans are afflicted with arthritis—most requiring medical care—and the majority of rheumatoid arthritis victims are young and middle aged adults in their most productive years, between 20 and 45 years of age.

In addition to the human pain and suffering caused by arthritis its economic dimensions are staggering. The annual cost to the Nation due to medical care bills and lost wages caused by arthritis is $9.2 billion.

I am concerned that the needs of victims of arthritis—a major health problem in the United States—are not being met at the present time and I believe these needs cannot be met in the future unless the Federal Government expands its leadership role in this area. We must provide the financial support that is essential to combating arthritis and unnecessary crippling.

To establish a national commitment to launch an attack on arthritis the bill provides:

First. A National Task Force is established to develop a plan to combat arthritis. The plan to be developed within 9 months, will include prevention and control studies, research and data analyses, field studies, health manpower training, screening programs and home care policies.

Second. The task force is to be composed of 16 eminently qualified persons including at least 2 who are victims of arthritis, and $500,000 is authorized for the task force.

Third. The Arthritis Institute at NIH is also required to establish a screening, early detection and control program to combat arthritis, and $30 million over 3 years is authorized for this purpose.

Fourth. The Arthritis Institute is required to establish research and demonstration centers of excellence throughout the United States and $45 million is authorized for this purpose over 3 years.

I believe this bill will provide the necessary funding—a total of $75.5 million over 3 years—to assure the Federal Government mounts an effective attack on arthritis.

By Mr. JOHNSTON (by request):

S. 2857. A bill to amend the public assistance provisions of the Social Security Act to provide that benefits thereunder (including supplemental security income benefits) shall be made available and financed in the case of Guam and the Virgin Islands on the same basis as in the case of other States. Referred to the Committee on Finance.

Mr. JOHNSTON. Mr. President, the legislation that I am introducing today would amend those sections of the Social Security Act which limit Federal funding for the Virgin Islands and Guam, and would place the two territories on the same level with the 50 States and the District of Columbia. It would also make the new supplementary income program for the aged, blind, and disabed applicable to Guam and the Virgin Islands.

Existing law imposes several special provisions which apply only to Federal participation in the assistance programs of the territories. These discriminatory provisions restrict Federal matching to one Federal dollar for each territoy dollar as compared with a variable matching formula applicable in the continental United States. This formula matches four Federal dollars to each State dollar in approximately the first half of the grant, and then dollar for dollar thereafter. Likewise, absolute ceilings on Federal financial participation also limit the ability of the territories to provide social services and needed improvements to other welfare programs.

The problem is further complicated by the fact that the cost of living is estimated to be 30 percent higher in the Virgin Islands than in the continental United States because practically everything the territory uses or consumes must be brought by plane or ocean vessel. An acute housing shortage has forced rents to a higher level for all families. These higher rents have stimulated the construction of more houses for the rental market, but middle- and low-income families cannot find dwellings within their financial means. In addition, those forced to exist on 59 cents a meal or $1.77 per day suffer serious deprivation and become easy prey to ailments related to nutritional deficiency and this creates an increased medical care caseload.

To continue Federal assistance in the Virgin Islands and Guam at a lower level than on the continent, in effect, discriminates against the U.S. citizens living there, and lends substance to the periodic claims that the people of the territories are relegated to a colonial status.

Enactment of this legislation will enable the Virgin Islands and Guam to strengthen existing programs, raise assistance standards, supplement the incomes of the working poor, and make it possible for their people to better meet the high cost of living. This in turn will assist in enhancing family life, improving the level of health, and assuring the general well-being of these islands.

By Mr. TUNNEY:

S. 2858. A bill to amend the Outer Continental Shelf Lands Act for the purpose of increasing the safety of offshore drilling and production. Referred to the Committee on Interior and Insular Affairs.

OUTER CONTINENTAL SHELF SAFETY ACT OF 1974

Mr. TUNNEY. Mr. President, the Congress has just passed an Emergency Energy Act, which calls for accelerated development of our domestic energy resources. The Outer Continental Shelf Safety Act of 1974, which I introduce today, will enact leasing procedures so that only the safest areas of the OCS will be opened for drilling and production, and it will provide for new, improved safety regulations for all OCS operations, with in-

creased enforcement of these regulations. I am convinced that we must consider the safety issues involved in increasing our offshore oil and gas production before major new projects are undertaken, so that the Congress and the people of our coastal areas can be assured that this endeavor will not entail unreasonable risks of accidents or oil spillages.

Clearly, the production from our offshore oil and gas reserves will be crucial to any attempt to attain energy self-sufficiency. These resources, including those in the shelf off Alaska, may equal all of the presently known onshore oil and gas reserves in the United States. But offshore drilling can be hazardous; accidents and spillages may occur which can cause enormous damage to the environment of the oceans and the coastline of our Nation. Major accidents in the Santa Barbara Channel in 1969, and in the Gulf of Mexico in 1970 and 1971 have focused attention on the dangers of offshore production.

The risk of blowouts such as occurred in Santa Barbara must and can be eliminated. Too often, remedial safety legislation is passed only after tragic disaster has drawn attention to the problem.

The Santa Barbara disaster led to improvements in safety practices, and some improvements in Government regulation. But the Interior Department's resources are very meager for this large task, and the oil companies have a great deal of influence in setting the degree of safety required for drilling and production.

I believe the Congress must act now, before offshore production is accelerated, to insure maximum safety for the protection of our environment and our coastal areas. Only then will this production be able to proceed in a socially acceptable manner to bring us the oil and gas we need. Soon offshore drilling will affect major population centers of the east coast, as well as southern California and the gulf coast. Indeed, the newspapers have reported just today that record sums were bid for new leases in the Gulf of Mexico.

Mr. President, to face this problem before it results in another avoidable disaster, I am sponsoring the Outer Continental Shelf Safety Act of 1973. This bill will insure that offshore drilling and production is commenced only in environmentally safe areas, and provides for rigorous new safety regulations which will be promulgated within the existing authority of the Secretary of the Interior. The bi'l also provides for strict enforcement of these safety regulations by the National Oceanic and Atmospheric Administration.

My bill will, first of all, require the Secretary of the Interior, through a rulemaking procedure, to produce a 5-year leasing schedule for proposed leasing of Outer Continental Shelf areas, and to make relative ranking of all such areas based on the hazard to the environment or to commercial or recreational uses of nearby ocean and coastal areas, of drilling and production in each area. Thus, we will know in advance which areas are planned to be leased, and of these areas, which ones pose the greatest danger of blowouts because of the geological, seismic, oceanographic, or other conditions of that area. The Secretary will then be required to lease areas in descending order of environmental hazard, according to his own listing.

This procedure is vitally needed. Presently, the Interior Department makes little effort and has insufficient resources to find out about the detailed geology of leasing areas until the actual leasing process is begun. This information is sought during the preparation of the environmental impact statement, but it is unrealistic to think that many leasing proposals will be stopped at such a late stage. Also, the present NEPA review does not allow comparison of the safety of drilling in different areas, as this bill will do.

It is essential for the Interior Department to have an overall view of the environmental hazards of offshore production on a comparative basis, to know that drilling in the Gulf of Mexico, will be inherently safer—assuming that the drilling will be done according to prescribed regulations—than, for instance, drilling off the Alaskan coast. Of course, the people of all areas affected by this kind of ranking should and will have an opportunity to participate in the process of creating this schedule. But once the schedule is agreed upon, it should be followed, and leasing commenced on the safest areas first.

I would expect such a procedure to delay further leasing in southern California, where geological conditions are not conducive to safe offshore operations, until other areas have been exploited. In later years, I would hope that new equipment can make drilling and production more foolproof and allow production without the risk of another Santa Barbara spill.

The second major function of the Outer Continental Shelf Safety Act of 1974 will be to mandate the Secretary of the Interior to review all present safety and operating regulations for offshore production and promulgate within 1 year a new, upgraded set of regulations. He will be aided in this process by a study to be performed by the new Office of Technology Assessment. These regulations should require the use of the best available technology in all new drilling and production, and upgrade any existing wells to meet increased standards for vital safety equipment, like blowout preventers.

My review of present problems in the safety field shows a number of areas where improvement must be made, and my bill will require an intense focus on these areas. Drilling equipment and techniques should be improved. Presently, there is 1 accident of significant proportions in every 500 wells drilled, and this figure should be greatly reduced.

Some safety equipment on producing wells has been shown to be quite unreliable. Immediate improvements in the design and testing of all these devices must be implemented.

Pipelines are a major source of pollution into the oceans, constituting 80 percent or more of the oil released into the water from offshore facilities. They must be built and laid with greater care, hopefully so that pipelines will last as long as a producing field is in operation. Also, we must have remote monitoring devices to detect leakages. One of the largest oil spills in history—160,000 barrels—was from a break in a pipeline caused by a ship anchor, which was not detected for 10 days.

Human factors are very important in offshore safety. More than half of all accidents and spillages in offshore drilling and production are caused by human error. It is imperative that the Interior Department institute minimum training requirements for the people who operate and supervise drilling rigs. Even sophisticated safety equipment is not helpful if it is not used in time, or used properly. Linked directly to the human factor is the need to design more reliable automatic safety devices, and to design equipment in such a way as to minimize the likelihood of misuse or human error.

Design and development of new equipment and new technology in the offshore oil and gas production industry has been slow, and it has responded to past crises. This must be changed. New technology must be planned for, and developed to meet desired goals. My bill will establish a new Government unit to focus on this area.

My bill will provide greatly increased enforcement of safety regulations, through frequent inspection and increased penalties for violations. Enforcement responsibility will be granted to the National Oceanic and Atmospheric Administration, an agency which already has considerable expertise in ocean science, management, and technology.

I have felt that it is very important to disassociate the enforcement agency from the agency which formulates policy and regulations for the Outer Continental Shelf. Repeated experience shows that enforcement suffers when all these functions are carried out by the same agency, and it is imperative to have the strictest possible enforcement of these safety regulations.

The bill will mandate the Administrator of NOAA to develop the capability to have frequent onsite inspections of all offshore operations which will include visual confirmation of the installation and testing of safety equipment, and inspection of all critical phases of the drilling and production process. The Administrator will also carry out, for the first time, formal investigations and reports of all fires and major accidents in the same manner as we now investigate transportation accidents.

Penalties are greatly increased in order to give the Administrator enough power to secure compliance with the safety regulations. Criminal fines are increased up to $50,000 per violation, and civil injunctions and fines of up to $25,000 per violation are authorized for the first time.

As another means of putting a direct economic incentive to the oil companies to maintain maximum safety, this bill will make the holder of any offshore lease strictly liable for all costs of cleaning up an oil spill, and liable for up to $15,000,000 in damages to any persons adversely affected by oil spills. This type

of sanction has been adopted by the Congress already in legislation dealing with water pollution other than in the Outer Continental Shelf, and for the Alaska pipeline, and I believe it is quite appropriate for this type of activity, where there may be major losses and costs associated with a major accident or blowout.

Mr. President, we need the resources of the Outer Continental Shelf, but the longer we wait to enact safeguards and to plan for making drilling and production as safe as possible, the greater will be the risk of environmental and economic disasters. Blowouts or spillages not only foul beaches and kill marine life, but they also waste large amounts of oil, which we can no longer afford to lose.

California has already had a major oil spill. The environmental price was unprecedented and we must spare other coastal areas from California's experience. But if California and the rest of the Nation cannot, in the rest of this decade and beyond, get the fuel they need to survive, the national economic and social price will be equally great.

Mr. President, we can afford neither extreme. I believe this legislation will go a long way toward allowing safe production in our Outer Continental Shelf, and make such activity socially acceptable. Only by enacting really rigorous safeguards can we accomplish that end. The first steps must be begun immediately, and I am hopeful that this legislation will get us started without delay.

I request unanimous consent to print in the RECORD the text of the Outer Continental Shelf Safety Act of 1974.

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

S. 2858

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 "Outer Continental Shelf Safety Act of 1974."

SEC. 2. Findings and Purpose—(a) The Congress hereby finds and declares that—

(1) Pursuant to the national energy emergency declared by the Congress, all available domestic sources of energy will be utilized and developed in an accelerated manner, including the great oil and gas resources in the Outer Continental Shelf;

(2) While accelerated development of the resources of the Outer Continental Shelf is important to our nation's future, it is also recognized that the long-term interests of the nation require that development of geologically unsafe areas should be delayed, and all drilling and production in the Outer Continental Shelf must be done with the utmost regard for prevention of spillages, blowouts, or other environmentally hazardous events, such as those which occurred in the Santa Barbara Channel in 1969, and the Gulf of Mexico in 1970 and 1971.

(3) Given the likelihood of accelerated development of the Outer Continental Shelf in the near future, it is feasible and necessary to implement and strictly enforce new, rigorout safety regulations for all operations;

(4) Improved safety of operations will lessen the waste of oil and gas which necessarily occurs in normal operations, as well as from accidents; and

(5) Existence of recognized, strict safety regulations will facilitate rapid exploration and production of offshore oil and gas resources.

(b) It is the purpose of this bill to enact procedures to lease only the least environmentally dangerous areas in the Outer Continental Shelf, to enact new and comprehensive safety regulations for operations in the Outer Continental Shelf, and to provide for strict enforcement of such regulations.

SEC. 3. Section 2 of the Outer Continental Shelf Lands Act is amended by striking the word "and" in clause (c), placing a semicolon at the end of clause (d), and adding the following clauses after clause (d):

"(e) The term 'operations' means all activities carried out for the purpose of exploring, producing, extracting, ceasing production, storing, transporting by pipeline, or transferring to any vessel the oil or gas resources in the Outer Continental Shelf;

"(f) The term 'OCS orders' means any regulations or standards concerning the equipment, apparatus, manner, or techniques to be used for operations in a region of the Outer Continental Shelf, or the equivalent thereof;

"(g) The term 'field rules' means any regulations or standards concerning the equipment, apparatus, manner, or techniques to be used for operations in specific or enumerated wells or lease sites in the Outer Continental Shelf, or the equivalent thereof;

"(h) The term 'safety regulation' means any regulation, OCS order, field rule, or other written or oral instruction or direction which fixes, limits, controls, or conditions the manner or techniques of performing any operations, or the equipment, apparatus, or technology to be used in any operations, or the training of personnel to perform any operations; and

"(i) The term 'Administrator' means the Administrator of the National Oceanic and Atmospheric Administration."

SEC. 4. The Outer Continental Shelf Lands Act is further amended by redesignating sections 9 to 15 and all references thereto as sections 13 to 19, respectively, and inserting the following new sections after section 8:

"SEC. 9. Further Requirements for Leasing—(a)(1) The Secretary shall, not later than six months after the enactment of this section, prepare a leasing schedule of all areas in the Outer Continental Shelf planned to be leased in the ensuing five years. Such leasing schedule shall include an assessment by the Secretary of the relative hazard to the environment, or commercial or recreational uses of adjacent ocean and coastal areas, of operations in each area, as compared to the environmental hazard in all other areas under consideration in the leasing schedule. Such assessment shall be based on consideration of the following factors, without being limited thereto: geological and geophysical conditions, seismic stability, oceanographic and meteorological conditions, biological data on existing marine and plant life, and commercial and recreational uses of nearby coastal and ocean areas.

(2) The Secretary is authorized to obtain from public or private sources, or through the U.S. Geological Survey, any surveys, data, reports, or other information which may be necessary to assist him in making the assessment of environmental hazard pursuant to paragraph (1) of this subsection. Any private person, company or association shall, upon request, provide the Secretary with any surveys, data, reports, or information, not containing evaluations, conclusions or other proprietary data, concerning proposed leasing areas, which are in the possession of such person, company or association. Any person, company or association which fails to comply with a valid request under this paragraph shall, upon conviction, be fined $10,000, or imprisoned for six months, or both, and failure to provide each separate document shall constitute a separate offense.

(3) The Secretary shall promulgate the five-year leasing schedule and assessment of environmental hazard in the same manner as provided for the promulgation of safety regulations in section 10(b)(1)(B) of this Act.

(b) Commencing one year after the enactment of this section, or upon the final promulgation of the five-year leasing schedule and assessment of environmental hazard, whichever occurs earlier, the Secretary shall not call for nominations or take any other steps to begin leasing of any area in the Outer Continental Shelf unless all areas contained on the Secretary's leasing schedule which have a lesser hazard to the environment or commercial or recreational uses have already been leased, or the leasing process for such areas has already begun.

(c) The Secretary shall issue a new five-year leasing schedule and assessment of environmental hazard at intervals of no more than five years, and whenever the leasing process for all areas in the previous effective leasing schedule has been commenced.

(d) Nothing contained in this Act shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(c) or any other provision of the National Environmental Policy Act of 1969.

"SEC. 10. Safety Regulations for Oil and Gas Operations—(a) Policy. It is the policy of this section to ensure, through improved techniques, maximum precautions, and constant use of the best available technology by well-trained personnel, the safest possible operations in the Outer Continental Shelf. Safe operations are those which minimize the liklihood of blowouts, loss of well control, fires, spillages or other occurrences which may cause damage to the environment, or to property, or endanger human life or health. Without limitation to these items, safe operations require the following:

(1) new permits for drilling or other operations should be based on use of the best available equipment and technology, and previously existing operations should be upgraded to use the best available equipment and technology to the maximum extent practicable;

(2) equipment used in offshore operations should be developed to conform to prescribed performance standards, which should provide for the greatest possible safety of operations;

(3) to the maximum extent practicable, including before exploratory drilling is performed, regulations or field orders concerning equipment and techniques to be used in drilling operations should be based on specific knowledge of geological conditions in the area of drilling;

(4) safety equipment, designed to prevent or ameliorate blowouts, loss of well control, or spillages, should be made as reliable as possible, including the use of fail-safe and redundancy devices, and should be regularly tested for reliability;

(5) blowout prevention equipment should contain features, including remote controls, which make such equipment useable and effective after well control has been lost;

(6) techniques and technology should be developed and implemented to provide complete monitoring of drilling operations, including downhole conditions, with remote recording of such data in a survivable unit;

(7) mandatory minimum training standards should be developed and enforced for all personnel in supervisory and control duties involving hazardous drilling and production operations;

(8) increasingly automated equipment, and equipment designed to minimize the risk of human error, should be developed and deployed;

(9) development of subsea production technology should be accelerated for safety and environmental reasons;

(10) in cooperation with the Coast Guard, safety factors on multi-well platforms should

be improved to lessen the risk of subsequent damage if one well loses control, and safety design and inspection of platforms, rigs, and artificial islands in the Outer Continental Shelf should be improved;

(11) in cooperation with the Office of Pipeline Safety, improved safety standards for pipelines should be developed and made applicable to all pipelines in the outer Continental Shelf, with the goal of having reliable pipeline lifetimes equal to the projected production lifetimes of oil or gas fields, and having pipelines with remote monitoring features to detect leakages;

(12) techniques, equipment, and personnel training for regaining control of blowouts, spillages, and fires, and removing pollutants, should be improved; and

(13) unreliable or inadequate safety equipment on existing wells should be replaced by the best presently-available equipment, and new equipment and technology should be applied to old wells and other facilities to the maximum degree practicable.

(b) Regulations; study. (1) (A) The Secretary shall develop, from time to time revise, and promulgate safety regulations for operations in the outer Continental Shelf, to implement as fully as possible the policy of subsection (a) of this section. Within one year after the enactment of this section, the Secretary shall complete a review of existing safety regulations, consider the results and recommendations of the study authorized in paragraph (3) of this subsection, and promulgate a complete set of safety regulations (which may include OCS orders) applicable to operations in the Outer Continental Shelf or any region thereof. Any safety regulations in effect on the date of enactment of this section which the Secretary finds should be retained, shall be repromulgated according to the terms of this section, but shall remain in effect until so repromulgated.

(B) (i) The Secretary shall promulgate safety regulations (other than field orders) pursuant to Section 553 of Title 5, and shall as part of such proceedings conduct a hearing pursuant to Section 556 of Title 5. Interested parties shall have a period of not less than 60 days in which to present oral or written comments or data on my proposed safety regulations.

(ii) Safety regulations promulgated pursuant to this subsection shall become effective not less than thirty days following final publication of such safety regulations in the Federal Register.

(iii) The Administrator shall submit written or oral comments on any proposed safety regulation proposed to be promulgated pursuant to this subsection within the time allotted therefor. Prior to final publication of such safety regulations, the Secretary shall publish in the Federal Register the comments of the Administrator, and an answer to all such comments or which are not accepted by the Secretary.

(iv) Any aggrieved party may seek judicial review of safety regulations promulgated pursuant to this subsection in the United States Court of Appeals for the District of Columbia, in proceedings pursuant to Chapter 7 of Title 5. All court proceedings concerning such safety regulations shall be expedited.

(C) No safety regulations (other than field orders) promulgated pursuant to this subsection shall reduce the degree of safety or protection to the environment afforded by safety regulations previously in effect.

(D) (i) All field rules must be published in the Federal Register not less than thirty days before the effective date thereof. Any modification of a field rule pursuant to a petition for review shall be published in the Federal Register no later than the effective date thereof.

(ii) Any person who objects to a field rule may petition the Secretary for review of such field rule not later than thirty days after the effective date thereof.

(iii) The Secretary shall promptly consider such petition, and take written or oral testimony, in his discretion. Not less than sixty days after receiving such petition, unless for good cause stated in the response, the Secretary shall respond to the petitioner stating whether or not and in what manner the field rule in question shall have been modified, and giving his reasons therefor.

(3) Upon the enactment of this section, the Office of Technology Assessment of the Congress shall conduct a study of the adequacy of existing safety regulations and technology, equipment and techniques for operations in the Outer Continental Shelf, including but not limited to the subjects listed in subsection (a) of this section. Not later than nine months after the enactment of this section, the results of the study and recommendations for improved safety regulations shall be submitted to the Congress and to the Secretary.

(4) The Secretary shall publish in the Federal Register a notice and description of every major variance, exception or exemption given from any safety regulation, not less than thirty days before the effective date thereof, *Provided*, That such period may be waived upon the certification of the Secretary, as part of such notice, of the existence and nature of an emergency justifying such waiver.

"Section 11. Enforcement of safety regulations; penalties—(a) Enforcement of safety regulations; inspections. (1) The Administrator shall have responsibility for rigorous inspection of all operations and enforcement of safety regulations promulgated pursuant to section 10 of this Act. All holders of leases under this Act shall allow access at the site of any operations subject to safety regulations to any inspector, and provide such documents and records as the Administrator may request.

(2) The Administrator shall promulgate regulations within sixty days of the enactment of this section, to provide for:

(A) physical observation by an inspector of the installation and testing at least once each year of all safety equipment designed to prevent or ameliorate blowouts, fires, spillages or other major accidents; and

(B) on-site inspection to assure compliance with safety regulations for at least some period of time during each important phase of operations, including but not limited to:

(i) exploratory drilling;

(ii) production drilling;

(iii) well completion and normal production of oil and gas;

(iv) capping or plugging of wells;

(v) major servicing or repairs or equipment and

(vi) laying of pipelines or installation of storage facilities.

(3) The Administrator shall make an investigation and public report on all fires and major oil spillages occurring as a result of operations pursuant to this Act. For the purposes of this subsection, a major oil spillage is any spillage in one instance of more than 200 barrels of oil over a period of thirty days, provided that the Administrator may make an investigation and report of lesser oil spillages in his discretion. All holders of leases under this Act shall cooperate with the Administrator in the course of such investigations.

(4) For the purposes of carrying out his responsibilities under this section, the Administrator may by agreement utilize with or without reimbursement the services, personnel or facilities of any Federal agency.

(b) Report. The Administrator shall make a report to the Congress within thirty days of the end of each fiscal year detailing enforcement activities under this Act for the previous year, and giving any recommendations for increasing safety of operations in the Outer Continental Shelf or increasing the effectiveness of enforcement of safety regulations. Such report shall state the number of violations of safety regulations found, the names of the violators, and the action taken thereon.

(c) Improvement of technology. The Administrator shall establish an Office of Marine Technology, and shall, through such office, (1) maintain a continuing study and assessment of the adequacy of equipment, technology and techniques of operations in the Outer Continental Shelf, with particular emphasis on safety of operations, and (2) conduct, accomplish or direct plans, designs, experiments, or studies for the development of advanced desirable equipment, techniques or technology for Outer Continental Shelf operations.

(d) Criminal penalties. Any person who knowingly and willfully violates any safety regulation issued under this Act shall be deemed guilty of a misdemeanor and punished by a fine of not more than $50,000 or by imprisonment of not more than six months, and each day of violation shall be deemed to be a separate offense. The issuance and continuation in effect of any lease, or of any extension renewal or replacement of any lease under the provisions of this Act shall be conditioned upon compliance with the safety regulations issued under this Act.

(e) Civil Penalties. The Administrator may institute a civil action for relief, including a permanent or temporary injunction, restraining order or any other appropriate order, including suspension of operations, in the district court of the United States for the district having jurisdiction over the site of the subject operation whenever there is a discharge or spillage of oil from an operation carried out pursuant to this Act, which poses an imminent or actual risk of harm to the environment, or commercial or recreational uses of nearby ocean and coastal areas, and whenever the holder of any lease under this Act (1) violates, fails or refuses to comply with any safety regulations issued under this Act;

(2) interferes with, hinders, or delays the Administrator or any authorized representative of the Administrator in carrying out his duties under this Act; (3) refuses to allow the inspection of the site of any operations; or (4) refuses to furnish any documents, records, logs, information or other materials lawfully requested by the Administrator. In addition, the Secretary may seek a civil penalty of not more than $25,000 for each violation of safety regulations issued under this Act, and each day of violation shall be deemed a separate offense.

(f) Petitions. The Administrator shall consider any petition from any person alleging the existence of a violation of any safety regulations issued under this Act. The Administrator shall answer such petition no later than ninety days after receipt thereof, stating whether or not such alleged violations exist and, if so, what action has been taken.

"Section 12. Liability for Oil Spills

(a) Any person in charge of any operations or facilities in the Outer Continental Shelf, as soon as he has knowledge of a discharge or spillage of oil from an operation which is not allowed by a permit issued pursuant to the Federal Water Pollution Control Act, shall immediately notify the appropriate agency of the United States Government of such discharge. Any person who fails to notify immediately such agency of such discharge or spillage shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than one year, or both. Notification received pursuant to this paragraph, or information obtained by the exploitation of such notification shall not be used against any person in any criminal case, except a prosecution for perjury or for giving a false statement.

(b) (1) Except when the holder of a lease issued or maintained under this Act can prove that damages in connection with or resulting from the discharge or spillage of oil from an operation in the Outer Continental Shelf, not allowed by a permit issued pursuant to the Federal Water Pollution Control Act, were caused by an act of war or negligence of the United States, or other governmental entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by any damaged party for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to $15,000,000 for any one incident. If there is more than one holder of a lease, the holders shall be liable for any claim allowed in proportion to their ownership interest in the lease. Liability of such holder for damages in excess of $15,000,000 shall be in accord with the ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(c) If any area within or without a lease granted or maintained under this Act is polluted by any discharge or spillage of oil from operations conducted by or on behalf of the holder of such lease, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including administrative and other costs incurred by the Administrator or any other Federal officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Administrator in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of the holder.

(d) The Secretary shall establish requirements that all holders of leases issued or maintained under this subchapter shall carry insurance in an amount sufficient to provide for clean-up of and adequate compensation for damages which may result from any discharge or spillage of oil resulting from operations in the Outer Continental Shelf.

(e) The provisions of this section shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

SEC. 5. Section 19 (as renumbered by this Act) of the Outer Continental Shelf Lands Act is amended to read as follows:

"SEC. 19. Annual report by Secretary to Congress—As soon as practicable after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the leasing and production program in the Outer Continental Shelf, including a detailing of all moneys received and expended in connection with administration of this subchapter during such fiscal year, and recommendations to the Congress for improvements in management, safety and amount of production in leasing and operations in the Outer Continental Shelf."

SEC. 6. Section 8(g) of the Outer Continental Shelf Lands Act is amended to replace the words, "section 9 of this Act" with the words, "section 13 of this Act."

By Mr. MAGNUSON (for himself, Mr. PELL, and Mr. HOLLINGS):

S.J. Res. 184. A joint resolution to protect whales and certain other living marine resources. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, late last year Congress passed overwhelmingly, and the President signed, the Marine Mammal Protection Act of 1972, a landmark piece of legislation designed to conserve whales, dolphins, porpoises, seals, sea lions, sea otters, polar bears, walrus, manatees, and dugongs.

But of all the animals whose fate is affected by this bill, none was the object of more public concern, interest, and attention than the great whales. Although several groups appearing before our Committee on Commerce were in strong disagreement on major issues, virtually all of the conservation groups and governmental agencies that testified were in agreement that the world's whale population was in serious trouble, and that strong measures were needed to prevent their disappearance and allow their recovery.

However, of perhaps even greater importance is a fact that has recently become only too apparent: that the fate of the whales is tied closely to that of other marine life upon which our country is heavily dependent, and their disappearance is a harbinger of the looming crisis over the world's future food supply in the ocean. This grave and critical situation is being brought about by those very nations that are destroying the great whales, and threatening the existence of other life in the sea, such as the fish stocks off our east coast, the coasts of Alaska, and on the high seas.

Those nations responsible for this irresponsible conduct are Japan and the Soviet Union, which do not consume whale meat in any appreciable quantities, but slaughter them for frivolous and wholly unnecessary purposes, such as for use in dog, cat, and mink food, and for cosmetic additives for which there are readily available substitutes. But if we allow the whales—which are killed so unnecessarily—to disappear, can the halibut, the haddock, and the salmon—which are harvested for food—be far behind? Sooner or later we are going to have to draw the line and try to halt this greedy pillage of these international resources that belong to all the world. Instead of waiting until it is too late to save the species I have mentioned, action must be taken now to bring Japan and the Soviet Union to their senses. Since reason, persuasion, and pressure from the world community have failed, perhaps the time has come to consider new legislation designed to prevent another country from destroying important international resources.

Yet, even as we discuss this situation, the Japanese and Russian fleets are sailing for the Antarctic to proceed with the decimation of the remaining whale stocks there. This year there can be no excuse for this greedy and short-sighted policy. At the June 1973 meeting of the International Whaling Commission—IWC—in London, certain minimum and urgently needed quotas and conservation measures were agreed to which these nations—in full awareness of the disastrous consequences—are now openly violating. For example, the 14 nations composing the IWC agreed by a three-fourths majority vote to phase out the killing of the severely depleted Antarctic finback whales, bringing the slaughter to an end no later than June 30, 1976.

According to the best estimates available to the U.S. Government, fin whale stocks in the Antarctic have declined to one-fifth their former size: from an original 380,000 to only 77,000 today. Yet the slaughter still continues. And in September of this year, the Japanese Government notified the United States that it was rejecting the restrictions set on killing fin whales, and would set its own quotas "voluntarily" and in line with Japanese "interests." The damage done by this year's killing of fin whales will be irreparable; and according to Dr. Lee M. Talbot, senior scientist at the President's Council on Environmental Quality—CEQ, the fin whales may never recover after this year's hunt, even if given complete protection for a number of years.

Other measures agreed to at the IWC meeting, but which have been rejected by Japan—and the Soviet Union as well—include a quota on the killing of minke whales—agreed to by a vote of 13 to 1, with only Japan opposing—and the setting of area-by-area quotas for sperm whales to avoid over-killing or even complete extinction in certain areas.

Our Nation has an important stake in this tragedy, and I am proud of the role our representatives have played in the fight to prevent it. For 2 years, the U.S. delegation to the IWC has fought long and hard for a 10-year moratorium on commercial, nonaboriginal whaling. In 1972, the Honorable Russell Train—now Administrator of the Environmental Protection Agency—led the U.S. delegation in its fight, as the personal representative of the President. This year, the U.S. Whaling Commissioner—Dr. Robert M. White, Administrator of the Commerce Department's National Oceanic and Atmospheric Administration—NOAA—led the fight.

Because of the groundwork laid down the previous year, and the skillful efforts and vital work done by Dr. White and his team, including representatives of the Departments of State and Interior, CEQ, and private groups such as Friends of the Earth, the Society for Animal Protective Legislation, and the Fund for Animals, intense public pressure both in this country and abroad were mobilized; and the IWC voted 8 to 5—with 1 abstention—in favor of the 10-year moratorium. Unfortunately, the required three-fourths majority was not obtained. But our delegation was able to impress upon the other IWC nations the importance of this problem and the world community's concern with it. As a result, some urgently needed conservation measures were agreed to; but it is these minimal measures that the Japanese and

Russians are now so flagrantly violating.

The crisis we are now facing on the whale situation is clearly described in an October 22, 1973, press release sent out by Dr. Robert White, criticizing the policies of Japan and the Soviet Union in very candid—and I believe appropriately strong—language. Dr. White stated:

The Governments of Japan and the Soviet Union have effectively refused to comply with vital conservation decisions taken by the IWC. The nations of the world have indicated their almost unanimous determination that the whales be protected . . . The action of Japan and the Soviet Union in ignoring the overwhelming sense of the Commission in which they sit, calls into question whether the IWC as presently constituted is capable of serving the cause of conservation, or only that of the whaling industry.

Another recent press release sent out by a coalition of conservation and environmental groups, operating under the name "Project Monitor," and including the Animal Protection Institute of America, the Animal Welfare Institute, Defenders of Wildlife, the Environmental Policy Center, Friends of the Earth, the Fund for Animals, and Let Live, Inc., called for a boycott of all Japanese goods sold in this country, a position later adopted by the National Wildlife Federation as well. As these groups have pointed out, a possible means of exerting economic pressure on Japan might be the "Pelly amendment" to the Fishermen's Protective Act of 1967, which permits the United States to embargo fisheries products from nations that flout international programs established for the conservation of marine resources.

In a subsequent press release issued after the Soviet Union followed Japan's lead in rejecting the major conservation measures agreed to by the IWC, the Monitor coalition observed that:

The Russians were carrying out policies more greedy, imperialistic, and exploitative than any capitalist nation, with the exception of Japan . . . Russia is behaving in a most destructive and irresponsible manner, and is carrying out economic policies characterized by the same greed and shortsightedness which the Soviet Union attributes to the capitalist world . . . By helping wipe out this irreplaceable resource for the sake of an easy profit, thereby depriving the other nations of the world as well as future generations of this priceless heritage, Russia is violating its own Marxist-Leninst principles and is surpassing the worst excesses of capitalism.

I can easily understand why the above groups feel that such extreme measures may now be necessary. The campaign to save the whales involves more than preventing the near or actual extinction of the largest, and among the most intelligent, animals that have ever inhabited the earth, or of halting the incredible suffering we are inflicting upon these creatures.

The real danger is that in eliminating the leviathans, we are further upsetting the delicate balance of life in the world's oceans, ecosystems whose health and stability are fundamental to man's own survival. By further depleting the remaining whale stocks to obtain products for which there are readily available substitutes, it is not too farfetched to ask if man may be foolishly hastening his own doom.

We can no longer plead innocence. The history of whaling has been characterized by the destruction of one species after another: the blue whale, the largest animal that has ever lived; the right, bowhead, and humpback. There is serious concern that some of these species may be so depleted as to be already doomed, for it is possible that not enough males and females will be able to find one another over the vast expanse of the ocean to breed in sufficient numbers to perpetuate the species.

Although reduced to tiny fractions of their former size, the sei, sperm, and finback whales—all of which are on our endangered species list—are still heavily hunted, mainly by Japan and the Soviet Union, which together kill 85 percent of the whales taken each year. And now, with Japan and Russia's announced intention to ignore the most minimal conservation measures to prevent the extinction of these species, there can be little optimism for their chances of future survival.

But the tragic extinction of the great whales is not the only issue involved here; in fact, they represent the mere tip of an iceberg. If we allow the Japanese and Russians to destroy the last of these mighty creatures—in which there is such intense world public interest—what will stop these nations from depleting or destroying stocks of fish off our shores which are essential to our Nation's future food supply, but which are not the subject of such strong international pressures?

Let us take a brief look at what the Russians and Japanese are doing to the world's fish stocks and future food supply: Japanese and Soviet trawlers have caused the depletion of halibut stocks in the eastern Bering Sea, which has severely damaged the United States and Canadian halibut fishery in this sea, despite strict conservation measures adopted by us to prevent this; Japan has over-fished salmon and halibut in violation of the treaty provisions and conservation recommendations of the International North Pacific Fisheries Commission, and has resisted efforts to protect young halibut; and we are all too familiar with the predatory fishing practices of the Japanese and Soviet trawling fleets off the shores of New England, Alaska, and other areas of our country.

This is a problem in which all of our people—not just "conservationists"—have a stake, and should take an interest. I know from speaking with my distinguished colleagues from Alaska that the people of that State are just as enraged about the destruction of their fish stocks as environmentalists are about the extirpation of the great whales.

Mr. President, I ask unanimous consent that the joint resolution in its entirety appear in the RECORD immediately following my introductory remarks.

Mr. PELL. Mr. President, let me quote from the opening paragraphs of an article by John Neary in the Saturday Review World of December 4, 1973.

Point Judith, Rhode Island: The reason you're not catching many fish, shrilled the wall poster in a local sea-food place, is because they are!

They, the poster explained, are Soviet and other foreign trawlers—Twelve Miles Off Our Coast, and Sucking Up Everything That Swims, Crawls, or Hides in The Sand! The placard ended with a demand for a Two-Hundred-Mile Fishing Limit Now!

Let me also quote from the Book of Jonah in the Old Testament:

But the Lord ordained that a great fish should swallow Jonah, and for three days and three nights, he remained in its belly.

Jonah prayed to the Lord his God from the belly of the fish:

I called to the Lord in my distress, and he answered me out of the belly of Sheol. I cried for help, and thou hast heard my cry.

As an aside, let it be said that the author of Jonah was not well up on his zoology, for the whale he was calling a great fish we know is really a mammal.

The joint resolution I am joining Senators MAGNUSON and HOLLINGS in introducing today is concerned with both these questions aimed at: first, to conserve the seriously threatened fish food stocks of North America, and second, to preserve the great ocean-going mammal who gave shelter to Jonah in his time of peril and distress.

First, let me address myself to the threatened irreversible depletion of our food fish stocks. The alarming situation in the coastal fishing waters of New England is symptomatic of what is going on throughout ocean space. The magnitude and urgency of the threat were clearly brought out in the testimony at the recent hearings Senator MAGNUSON held before the Commerce Committee.

As the energetic head of the Point Judith Fishing Cooperative, Jake Dykstra, accurately observes:

The problem is that the pressures are moving faster than the diplomats. I am afraid if they don't evolve something in 1973, events will overtake them. Already various countries—35 of them in the first two years—have made some moves to extend unilateral jurisdiction.

Speaking from the world community viewpoint of protecting the "common heritage of man," Ambassador Arvid Pardo of Malta who seeks pacem in maribus, identifies a problem at the heart of the matter.

We need management of ocean resources. This is essential because technology has brought about a situation where over fishing can take place. There must be certain minimal standards. We have to have a measure of authority.

The joint resolution calls upon the Secretaries of State and Commerce to respond to this food resource emergency in ocean space using all the authority that domestic law and international agreements place at their command. One area of diplomatic action, for example, would be high level bilateral talks with the Soviet Union, with Japan, with other involved countries, aimed at perfecting or ensuring the enforcement of multilateral agreements already in existence, such as those of the International Commission for the Northwest Atlantic Fisheries—ICNAF.

Ultimate solutions lie in the establish-

ment of an orderly international regime for the oceans. This is the goal of the Third United Nations Conference on the Law of the Sea, which is already underway. The United States must make every effort to contribute to its successful outcome. Meanwhile, however, we must act to assure that when a regime of the seas comes into effect, food fish stocks will not have diminished to the point of no return.

In my remarks last week in CONGRESSIONAL RECORD, December 13, pages 41445–7, I outlined in some detail the circumstances surrounding the plight of the whale. At the heart of this problem lies the stubborn refusal of the two remaining major whaling nations, Japan and the U.S.S.R., to observe the 10-year moratorium on commercial whaling called for by the United Nations Conference on the Human Environment and to abide by conservation decisions taken by the International Whaling Commission in London last June. The United States through the Departments of State and Commerce has protested these refusals. In the private domain, a goods boycott has been launched. Whatever is possible must be done to preserve the family of whales, dolphins, porpoises, and other sea mammals in all their variegated branches.

From the belly of a whale came Jonah's anguished cry for help, and it was heard. Now out of the depths comes the cry of the whale that it may live. The song of the whale must not be a swan song.

I ask unanimous consent to have printed in the RECORD the third installment of "Chaos at Sea" by John Neary, appearing in the Saturday Review World and the text of the exchange of notes between the United States and Japan on the decisions of the International Whaling Commission.

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

OF FLOUNDERBURGERS AND THE FISHERMAN'S DILEMMA

(By John Neary)

POINT JUDITH, RHODE ISLAND.—The Reason You're Not Catching Many Fish, shrilled the wall poster in a local sea-food place, Is Because They Are!

They, the poster explained, are Soviet and other foreign trawlers—twelve miles off our coast, and sucking up everything that swims, crawls, or hides in the sand! The placard ended with a demand for a two-hundred-mile fishing limit now!

As I sat thinking over the poster's message, the waitress arrived with a miserable, briquette-shaped object that looked nothing like the succulent, snowshoeshaped flounder I'd ordered. It looked, rather, like a slightly oversized Good Humor bar, minus its wooden stick and entombed under thick layers of jellied breadcrumbs. I smeared the "flounderburger" with tartar sauce and chomped away on it, glumly but gamely.

On the way out I looked again at that wall poster, with sharper interest: With all those foreign fleets out there scooping in fish and spewing out anonymous-looking briquettes, how can we sea-food buffs ever be sure again about the origins and contents of the cube-shaped objects dumped on our plates?

I figured, of course, that the poster's anti-poacher message was probably exaggerated. But there is no doubt that the anger it reflects is genuine enough.

The flounder-briquette dinner I had just consumed attests to the fact that the Reds aren't getting quite everything out of the ocean. Still, I suspect that in the little Point Judith sea-food place, I stumbled on two solid clues—the flounderburger and the shrill poster—to what is nothing less than a radical change in the life of the American fisherman. Always before he had been thought of as a Winslow Homer like figure—solitary, taciturn, picturesquely resigned to life as the tides bring it to him. But the flounderburger and the poster reflect mass production, mechanization, a fiery new militance, and a high degree of politicization, fueled by a keen anger. The fisherman may even be as sore about the foreign poachers as I was about the plastic briquette.

My flounderburger and the American fisherman's dilemma have both been shaped by the same force: economics. Americans don't like fish very much to begin with: They consumed only 12.2 pounds of sea food per person last year, compared with 86.1 pounds per person in Iceland, where they can't seem to get enough of it. We Americans import vastly more sea food than our own vessels bring in each year. Those richly nutritious waters over our continental shelf, mixed with currents from the north and south, not only produce stupendous quanties of fish but also draw huge fleets of foreign fishing vessels to hunt them. More than 800 ships each year harvest the waters off the United States—Poles, Russians, Bulgarians, East Germans, West Germans, Italians, French, Norwegians, Japanese, Cubans, Greeks. Even Irish boats are out there, vying to fill their holds for tables back home. They all want sea protein far more keenly than do Americans—who make a sizable portion of what sea produce they do purchase into cat food and fertilizer, to the vast amusement of foreign fishermen. Many of the fleets competing are government subsidized, so that the independent U.S. fisherman simply cannot afford to compete with them. One result is that you will find packing plants in villages like proud old Gloucester slicing up fish caught by Polish boats, so as to supply the American fondness for fish sticks. Another result has been the imposition of quotas on coastal waters that U.S. fishermen have traditionally regarded as their own providentially granted fishing preserve. Enforcement of the quotas is vague and mostly voluntary. It is overseen only by a Coast Guard monitoring plane that carries a United States National Marine Fisheries Service spotter along on its weekly overflights. Some stocks have suffered near-mortal damage. Haddock, driven nearly to commercial extinction, cod, ocean perch, pollack, yellowtail flounder—all are now under some kind of formal quota.

This has been rough on many U.S. fishermen. Boston, heavily dependent on haddock, has seen its fishing fleet decline from seventy-nine vessels in 1958 to just thirty by 1970. Several years ago, for the first time, fish vendors at the city's wharf were selling fish, almost half a million pounds of it, that had been trucked in from as far away as Canada.

Other ports have resourcefully switched brands. Thus it is that flounderburgers much like the one that graced my plate in Point Judith begin their trip to the competitive marketplace on the first floor of a building that is the heart of Point Judith's economy: the fishermen's cooperative. When the flounder arrive here, they still look like fish. Fresh from the draggers that bring them in, they roll on a conveyor belt past a silent gantlet of knife-wielding men and women: The long blades flash just one per fish, and the de-filleted corpse ends up in a bin. The fillet, meanwhile, is shunted along toward flounderburgerhood and destiny.

The Point Judith co-op is one of more than 100 maintained by some 10,000 U.S., Puerto Rican, and Virgin Islands fishermen. For the men who sail from the tiny harbor each day, the co-op provides more than just an economic edge in their endless competition with the vagaries of water, weather, and the foreign fleets. It lends them political clout, too, in the form of one Jake Dykstra, burly president of the co-op. Dykstra's father came to Point Judith many years ago to continue the livelihood he had learned as an oysterman in West Sayville, Long Island. Jake himself has been going to sea ever since he can remember.

While he still tries to spend time fishing, Dykstra has in recent years devoted huge chunks of his life to seemingly endless negotiations on the law of the sea and on the fishing arrangements between the United States and foreign nations. Dykstra is a working fisherman co-op president. He is also a fishing industry adviser on the law of the sea and an advisory board member of the University of Rhode Island's Law of the Sea Institute. Above all, Dykstra stands four-square for the coastal fisherman. As one co-op member put it, "Jake's the king around here—he knows everything."

One thing Jake knows is that a 200-mile exclusive zone will never work. "For the average coastal fisherman it would be simplest and neatest just to say, "Stick the fence out there two hundred miles, and tell them to keep out." But it's not what we can sell. For instance, it doesn't protect the salmon fisherman on the west coast, in the northwest and Alaska. Their fish range beyond two hundred miles. It doesn't please the tuna fishermen, because it's what the South Americans are trying to do to them right now. And it doesn't please the shrimp fishermen, because we have a high-seas shrimp fleet that this runs into, smack, head on."

To Dykstra and his industry the answer is a proposal based not on geography but on biology: "We would like to see the resources that are dependent on our coastal environment declared the property of the coastal nation, just as oil and minerals have been. The fin fish of the ocean can be classified into roughly three categories: coastal varieties; varieties that spawn in fresh water and spend most of their lives at sea; and high-seas varieties such as tuna, which range the ocean and do not depend on a coastal environment. There are such fish as herring, which may range quite widely. But they need the coastal environment for food and reproduction.

"We are willing to make the provision that if we do not utilize the fish, if they are underutilized, an arrangement could be made so that someone can utilize them. In other words, we just don't build a fence around food that is needed by mankind and say, 'It's ours, you can't have it, let it die'—because many of these things are a matter of acceptability to the world community. What we're doing is trying to get some kind of compromise that people can live with and that will sell.

"Our biggest difficulty domestically," Dykstra says, "is with the military. They're very, very skeptical of anything that can lead to any country barring military hardware—airplanes and nuclear submarines—through any kind of excuse. They feel that if you draw lines in the ocean and say, 'Well, we have jurisdiction for fisheries out so far,' then this will quickly be expanded to other areas and will exclude military activities."

Against this tangled background, international agreement has not been proceeding with alacrity. "The problem is that the pressures are moving faster than the diplomats," Dykstra says. "I'm afraid if they don't evolve something in 1973, events will overtake them. Already various countries—thirty-five of them in the first two years—have made some moves to extend unilateral jurisdiction."

Dykstra is certain his industry eventually will get some sort of management or control over coastal fisheries, if only because the

growing world employment of such zones "will demand this and the United States will go along."

Meanwhile, between now and a unilateral move or a ratified law of the sea treaty, a lot of fish are being grabbed off Point Judith. "The schedule might be," he says, "that we sign in 1975—but it might take another five years before there are enough ratifications to make it international law, seven years before we can go out and say to a foreign vessel, 'Okay, get off the fish!' This is just too long for us to wait. So we intend to ask the United States to move unilateraly in the interim."

Such proposals, backed by men like Dykstra and the industry's Washington lobby, the National Fisheries Institute, have been getting increasing attention in Congress. The proposals are, of course, woefully at odds with the ideal of a law of the sea that would be something more than the codification of the existing maze of treaties and fiats now in effect between nations. Demands such as Dykstra's evoke angry criticism from weary participants in the law of the sea controversy.

"There is, apparently, a belief that there is an opposition between pragmatism and idealism," growls Arvid Pardo, Malta's former ambassador to the United Nations. Pardo first articulated the beguiling phrase "common heritage of man" when he described in 1967 his vision of the ocean bed. "We need management of ocean resources," he told the participants in the University of Rhode Island Law of the Sea Institute's recent conference in Kingston, Rhode Island.

"This is essential because technology has brought about a situation where over-fishing can take place. There must be certain minimal standards. We have to have a measure of authority. If we have merely national management, this will bring about the destruction of fisheries for the simple reason that we will have different standards of management in different areas—with the effect that some states, with fish spawning in their areas of jurisdiction, will exploit fish in such a manner that there will be a few fish left to swim over to the jurisdiction of other States."

At the Kingston conference I listened while a United States participant in the negotiations, Leigh Retiner, director of the Interior Department's Office of Ocean Resources, approached the dilemma from the other direction. Retiner urged the establishment of an international tribunal for jurisdictional disputes. "A treaty," Retiner asserts, "has to be written that is sufficiently attractive on basic issues to most countries that those things that cannot be resolved are left to be resolved by wise men interested in making objective decisions. Problems should not have to be resolved by the use of force, which seems to be the way we now try to resolve our law of the sea disputes."

The outlook for a successful treaty next year, Retiner says, is far from hopeful. "My fear is that the law of the sea treaty on many important issues will, of necessity, be vague," he says. "And the question is, Will nations be prepared to sacrifice just a little of their selfish interests and take a chance on a new way of resolving disputes? Or are we going to write a treaty that will give rise to disputes and force us to negotiate another silly exercise in Geneva five, ten, fifteen years from now—after a few more cod and tuna wars?"

It seemed to me that this was where I came in; these discussions merely reflected conflicting demands instead of moving toward a rational resolution. It was as if the co-pilots of an airplane had a pleasant chat about the aerodynamics of flight while the plane hurtled toward the ground.

"As long as I see countries like the United States unable to sacrifice in their negotiations *that much* of their national interest in order to achieve the kind of broad international community I've just referred to," Retiner says, "I cannot be very hopeful that the Law of the Sea Conference will be successful."

What *is* the biggest problem, anyway? somebody asks. Oil, gas, minerals, fisheries, or what? And who really needs a law of the sea, anyhow?

Ambassador Pardo has an answer: "No one needs the conference right now—but if it is not successful, the consequences in ten years are likely to be disastrous. The situation right now is like sharks smelling blood in the water; they go crazy, attack the carcass, tear it to pieces—and kill each other, all at the same time. The states are trying to swallow the carcass of ocean space beyond national jurisdiction and, in the process, are very likely to inflict serious injury on themselves."

Is there no solution in sight?

"That," says Leigh Retiner glumly, "is what the Law of the Sea Conference is for—to have a solution to every single one of these problems and to have it as quickly as possible, or we're going to war with each other."

I was impressed by the American's forthright, cogent remarks. If America was coming across like this in the negotiating sessions, perhaps the outcome will not be as bleak as one might think. There it was, as blunt as Jake Dykstra and as urgent as the poster: a plea for genuine international effort to start taking care of our ocean.

ADDITIONAL COSPONSOR OF A BILL

S. 2744

At the request of Mr. RIBICOFF, the Senator from New Mexico (Mr. MONTOYA) was added as a cosponsor of S. 2744, a bill to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration, and in a Nuclear Energy Commission in order to promote more efficient management of such functions.

ADDITIONAL COSPONSOR OF A RESOLUTION

S. RES. 222

At the request of Mr. MAGNUSON, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of Senate Resolution 222, authorizing a National Oceans Policy Study.

ADDITIONAL COSPONSOR OF AN AMENDMENT

AMENDMENT NO. 920

At the request of Mr. KENNEDY, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 920 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

Mr. CRANSTON. Mr. President, I rise in order to inform my colleagues that at the request of the distinguished Senator from Indiana (Mr. HARTKE), the chairman of the Committee on Veterans' Affairs, I will chair a hearing during the week of January 14, most probably on January 17, in Los Angeles, Calif., in order to continue the investigation begun at a hearing I chaired in San Diego on August 29. The purpose of the coming hearing will be to discover the specific causes for the current crisis situation in the Los Angeles Regional Veterans' Administraton office, where there are 6,600 backlogged cases of veterans having difficulties with educational assistance payments.

I will address this problem in greater detail later today.

Mr. President, at the time, the subcommittee will receive testimony from witnesses who reside in the areas served by the Los Angeles VA office, from campus veteran affairs officers, and from the Veterans' Administration. In addition to discovering the causes of the current disaster in Los Angeles, we hope to come up with some viable suggestions for more effective processing procedures for the veterans education benefit program, and in general, for a more effective and responsive VA regional office in Los Angeles.

NOTICE OF HEARING

Mr. CRANSTON. Mr. President, I rise in order to inform my colleagues that as chairman of the Subcommittee on Health and Hospitals of the Committee on Veterans' Affairs, I will be holding hearings on January 15, in Los Angeles, and on January 18, 1974, in Sacramento, Calif., in order to conduct a review of the veterans' health care and the implementation of Public Law 93–82 at the Long Beach Veterans' Administration Hospital and at the VA hospitals at Livermore and Martinez, Calif.

Mr. President, at that time, the subcommittee will be receiving testimony from witnesses who reside in those regions and from veterans' group leaders as well, in order that we may have their unique insight into the problems which may be present in the carrying out of Public Law 93–82, the "Veterans' Health Care Expansion Act of 1973," which I authored as S. 59 and which was signed by the President on August 3, 1973. The subcommittee will also be looking into the general administrative practices admissions policies and medical school affiliations, as well as the possible need for further hospital or outpatient facilities in these areas.

ADDITIONAL STATEMENTS

RETIREMENT OF BEN J. GILLEAS, DIRECTOR OF INVESTIGATIONS, PREPAREDNESS INVESTIGATING SUBCOMMITTEE

Mr. THURMOND. Mr. President, at the end of this month Mr. Ben J. Gilleas, director of investigations of the Preparedness Investigating Subcommittee, will retire after 20 years service on that subcommittee and 32 years as an employee of the Government.

As a member of the Senate Armed Services Committee since January 14, 1959, and as ranking minority member of the Preparedness Investigating Subcommittee since January of 1969, it has been my pleasure to know and work with

Mr. Gilleas in many critical areas vital to our national defense.

During this period Mr. Gilleas was a valued member of the staff and earned the respect of all the committee members. A staff professional of exceptional ability, he faithfully and diligently served the members of the subcommittee and full committee.

Over the years many members came to rely upon his counsel and sound judgment and to call upon his vast store of knowledge. His work as Director of Investigations since 1965 resulted in his handling some of the most difficult tasks faced by this subcommittee. In each instance he performed in an exceptional manner and his objective and thorough investigations enabled the committee members to have available all of the facts before making final decisions.

His high caliber work has been particularly important in connection with his role as chief counsel of the Tactical Air Power Subcommittee for over 5 years. During this period he directed the staff in assisting the Members as they made decisions on requests totaling around $3 billion annually.

During the past few years he has handled, with great skill, the complex staff work on the Navy's new F–14 aircraft. Because of problems with the contract this procurement item has required detailed investigations and study.

Mr. Gilleas also played a key role in the muzzling of the military investigation which I initiated in 1961 and which consumed almost the entire time of the Preparedness Subcommittee in 1962.

Over the years he has served under three chairmen, Senator JOHN C. STENNIS, Lyndon B. Johnson, and Leverett Saltonstall. Many important investigations were directed by these Senators during the chairmanships. One which comes to mind is the investigation ordered by Senator Lyndon Johnson, which inquired into our lack of space technology after the Soviets orbited Sputnik I in 1957. Out of that investigation came the recommendation to establish the National Aeronautics and Space Administration and the Aeronautical and Space Sciences Committees now operating in both Houses of Congress.

Of recent importance has been Mr. Gilleas' work in the investigations directed by Senator STENNIS into the readiness of the Army's fighting divisions. This is a matter of utmost importance and carries out the charter of the Preparedness Subcommittee which is to assure the continuous preparedness of our national defense structure.

A graduate of Georgetown University's School of Foreign Service in 1948, Mr. Gilleas received a law degree from the Georgetown University Law School in 1952.

Besides his abilities as a legal expert and an investigator, Mr. Gilleas demonstrated personal qualities of character and integrity. He was always diplomatic and polite.

Mr. President, I know all of the members of our committee and my colleagues in the Senate will join with me in wishing for Mr. Gilleas continued success in whatever he might undertake.

Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Nevada.

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

STATEMENT BY SENATOR HOWARD CANNON

Mr. PRESIDENT, it is my pleasure at this time to give credit to a valuable staff member of the Senate's Armed Services Committee. I am speaking of Mr. Ben Gilleas, who has just retired after completing more than 32 years of federal government service. As most of my colleagues know, he has served as a member of the professional staff of the Senate's Armed Services Committee and additionally as the director of investigations of the Preparedness Subcommittee. He also performed yeoman service as the General Counsel of the Tactical Air Power Subcommittee and Close Air Support Subcommittee. Being Chairman of both of these committees, I had an excellent opportunity to watch this man function. I can unreservedly say that he is an energetic, imaginative and exceptionally capable person. I might also add that every once in a while a staff member surfaces head and shoulders above all others. Ben is this kind of an individual and it was my privilege to have him work for me. He shall not be forgotten, and I wish him well in whatever avocation he decides to follow.

BEN J. GILLEAS AND R. JAMES WOOLSEY DESERVE PLAUDITS FOR THEIR SERVICE TO THE ARMED SERVICES COMMITTEE

Mr. McINTYRE. Mr. President, two very able members of the staff of the Senate Armed Services Committee are leaving that committee and I want to join in paying tribute to their many contributions to the work of this committee and the fine record both of them have written.

Ben is retiring after 32 years of Government service, 20 years of these on the Preparedness Investigating Subcommittee.

During his two decades of work here in the Senate he has been associated with many of the major accomplishments of this major subcommittee of the Armed Services Committee.

He did much of the important work on investigating ammunition shortages in Korea during that difficult conflict.

For many years he has conducted annual investigations into the readiness of the Armed Forces and in the course of this made many trips to the battle fronts in Vietnam.

In addition to his work on combat readiness Ben has been conducting investigations into the overall manpower needs of the various headquarters commands and the justification for the number of personnel assigned. Many of his recommendations for reductions have been adopted by the Armed Services Committee.

A lawyer—he graduated from Georgetown Law School—he also has served for 5 years as chief counsel for the Tactical Air Power Subcommittee headed by my friend the distinguished Senator from Nevada (Mr. CANNON). He has particularly lent his talents to work on the complex F–14 program.

I thank Ben for the service he provided me and all the members of the Armed Services Committee.

I wish Ben well in the years to come as he gets some deserved respite from his years of serving his country.

And, while Ben is retiring, the other member of the staff who is leaving is going into private practice of law.

Jim Woolsey came to the Armed Services Committee only recently but he performed distinguished service during his 3 years working for the Senate.

A Yale Law School graduate, a Phi Beta Kappa, and a Rhodes Scholar, Jim brought to the Armed Services Committee experience as a staff member in the Pentagon and an adviser to the U.S. delegation to SALT.

On the committee Jim has provided invaluable staff work on the draft, voluntary military service, and many other important areas.

I want to thank Jim for the assistance he provided me and the other members of the committee and to wish him well in his new pursuits.

RETIREMENT OF BEN GILLEAS

Mr. STENNIS. Mr. President, I want to take a moment to say a word of commendation for Ben Gilleas, director of investigations for the Preparedness Investigating Subcommittee of the Senate. He is retiring at the end of this month after 20 years of subcommittee service.

As chairman of the subcommittee and as chairman of the Armed Services Committee, I think I am as well acquainted as anyone with Ben Gilleas and his service. He is a man of high integrity, and he has devoted great professional skill to his work. It is no exaggeration to say that he has made an important contribution to the national defense.

As a staff investigator and, more recently, as director of investigations he has inquired over the years into a number of important defense problems. His reports have been of great use to me and to members of the subcommittee and the full Armed Services Committee.

Mr. Gilleas, with a total of more than 30 years in Government, is fully deserving of retirement. I hate to see him leave, but I wish him well in the future. He has my thanks for a job well done.

RETIREMENT OF BEN GILLEAS

Mr. NUNN. Mr. President, during my first year of service on the Armed Services Committee, I have relied heavily on the expertise of committee staff members for guidance. None, however, was more helpful to me during this year, nor more consistent in his advice and counsel than Ben Gilleas.

My orientation to the many complex problems which daily absorb the Armed Services Committee was made easier by my close association with Ben. Ben is exceptionally bright and competent, and will be sorely missed by all members of the committee who relied on his experience and wisdom. I join all the committee members in regretting the loss of this knowledgeable individual from the Armed Services staff.

Ben certainly has my best wishes as he retires from Government work and goes into other endeavors at the end of

this month, and I am certain all of my colleagues join me in wishing him great success in all future endeavors.

RETIREMENT OF BEN GILLEAS AND JIM WOOLSEY

Mr. JACKSON. Mr. President, as a member of the Armed Services Committee, I have over the years come to recognize the important service rendered to the Senate and to the American public by the dedicated and competent members of the staff. It was thus with great regret that I learned that Ben Gilleas, the staff director of the Preparedness Subcommittee, and Jim Woolsey, the committee's general counsel, would be leaving us at the end of the current session.

I know I speak for every member of the committee in pointing out the key role both Ben and Jim played in the orderly conduct of committee business. Whether in resolving the complex, technical, or legal problems present in every defense measure, or in making sure that all facets of a question were fully and knowledgeably explored, the vital legislation reported out by the committee has been far the better for their efforts.

In expressing my own appreciation for their dedicated work, I want to wish both Ben and Jim the best of success in their future endeavors.

THE UNFAVORABLE ECONOMIC IMPACT OF THE ENERGY CRISIS

Mr. SYMINGTON. Mr. President, the impact of the current energy shortage already has begun to chill potential business expansion in our State of Missouri.

Because of the energy squeeze, according to the Missouri Division of Commerce and Industrial Development, a larger manufacturer has postponed a decision to locate its $30 million facility in mid-Missouri.

The company, which could have employed some 1,000 people, explained to CID that they were impressed with the cooperation shown, and the interest generated by the citizens of that part of mid-Missouri; but the energy crisis, with its resulting problems, have delayed further decision on plant expansion.

I ask unanimous consent to print a news release on this matter in the RECORD.

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

NEWS RELEASE

(Information Section, Missouri Division of Commerce and Industrial Development, Jefferson City, Missouri)

A major manufacturer has postponed any decision on the location of new facilities in Mid-Missouri because of the energy squeeze, according to Ray V. Jeffrey, director of industrial development for the Missouri Division of Commerce and Industrial Development.

Late in August of this year the Division had been asked by this manufacturer to document a labor supply of 1,000 people in the Mid-Missouri area. This company had plans to invest over $30 million. "With the cooperation of the news media and other interested people, we were able to show a labor pool of over 7,000 persons," Jeffrey explained.

When contacted about their decision to hold back on plans for the large manufacturing complex, company officials said, "We are extremely impressed with the cooperation shown and the interest generated in Mid-Missouri; however, due to the energy crisis and the resulting problems we have decided to delay any further decision on the matter until a definite solution can be worked out."

"This does not mean the company will locate in another area or that the work involved in providing the company with the labor information was not important; it means in this case that we are going to have to wait for a more favorable energy climate," Jeffrey concluded.

PLAY IT AGAIN, SAM

Mr. HUGH SCOTT. Mr. President, an editorial entitled "Play It Again, Sam," in last night's Washington Star-News deals accurately and directly with a recent incident involving a Ralph Nader lawyer and a White House tape. The editorial says what needs to be said. I ask unanimous consent that it be printed in the RECORD.

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

PLAY IT AGAIN, SAM

Who said social life in Washington is dull since the Nixon administration came to town? We now have the ultimate in entertainment on the cocktail circuit: Tape recordings, straight from the Oval Office.

They may be scratchy and hard to hear but, gads, what great fun! If you listen closely—and who's going to engage in the usual cocktail party chit-chat when a Watergate tape is on?—you can hear President Nixon telling jokes, and heaven knows what else. And all courtesy of Nader's raiders, that super-duper group of reformers who engage in rooting out injustice, malfeasance, misfeasance, wrongdoing, and bad judgment of all description, from the corporate board rooms of America to the highest councils of government.

It is hard to imagine an instance of poorer judgment than that of William Dobrovir when he played a copy of a White House tape the other night at a cocktail party. It is particularly irresponsible conduct for a lawyer, who is considered an officer of the court.

The White House turned the tape over to Dobrovir as a result of a court order in a suit filed by Nader and a number of consumer groups, who have charged that milk subsidies were raised by the Nixon administration in return for campaign contributions. The playing of the tape at a cocktail party lends weight to Mr. Nixon's argument that executive confidentiality is being breached by requiring him to turn over Watergate tapes to courts and investigators.

It seems to us that Dobrovir also used bad judgment in getting the help of a network television correspondent to make two copies of the tape. That plays squarely into the hands of those at the White House who accuse Watergate investigators and the press of being in cahoots to get the President.

Dobrovir has acknowledged his error and has told the court he is sorry. But that hardly seems sufficient amends for such serious misconduct. We would think that the local Bar Association would at least want to look into the matter.

If this is an example of how the tapes are being handled once they get out of the White House, we wouldn't be surprised if copies of Watergate tapes show up next week in Christmas stockings around town. Ho, ho, ho . . . play it again, Sam . . er, Bill.

THE ENERGY CRISIS

Mr. ROBERT C. BYRD. Mr. President, in the almost 200 years of our existence as a nation, the United States has faced, and has overcome, some major national crises. Since the early days of this century, we have also been involved in international crises. So far, none of these domestic or foreign crises has seriously damaged the fabric of life in America, though there have been some that cost us dearly in lives and in treasure.

Today, and for the foreseeable future, the American people are faced with a crisis in the supply of the energy upon which so much of our lifestyle depends, and the ramifications of this crisis are such that the sacrifices that will be demanded of us will call for an understanding, as well as an acceptance, of their necessity. It is inevitable that there will be inequities. Honest administrative error, compounded by some instances of chicanery, will render a perfect distribution of the sacrifices an impossible task. We are a nation of human beings, not angels.

But because we are human, and because the gasless Sundays and lowered thermostats have come upon us with startling suddenness, we at once look around for somebody or something to blame for our straitened circumstances. At the moment, the leading candidates in the blame category are the Arabs, the Israelis, the major oil companies, and the Nixon administration, more or less in that order. While each of them bears a part of the responsibility for the suddenness, if not for the certainty of the crisis, we must always bear in mind the startling fact that while we Americans comprise only 6 percent of the world's population, we consume almost one-third of all the energy used in the world. Much of this energy use in the United States has been for nonproductive purposes, and we have long enjoyed a profligate use of energy. If the current crisis will teach us anything, it will be that the days of 40-cents-a-gallon gasoline are over—possibly never to return. We have been living in a cheap energy era—an energy Utopia. We have now entered upon an energy deficit era, where life will be bereft of a few of the creature comforts and luxuries that most Americans have taken for granted for decades.

The allocations plan announced on December 13 by the Federal Energy Office signals the beginnings of realization by the administration that, however unpalatable the diet may be, our energy appetites are going to have to be curbed. It is unfortunate that these steps are now in the category of the imperative and the unavoidable, whereas prudence and perspicacity a year or two ago would have cushioned the impact. But there is no use crying over spilt petroleum, and our national task now is to apply our genius to alleviating the effects of our social profligacy and our planning deficiencies. There is no reason why our current travail should be anything other than temporary, given our technological excel-

lence, and our still abundant sources of basic energy fuels. What we need is the determination to apply this technology to the abundance, and a willingness to invest a great deal of money toward American self-sufficiency in the years to come. Nor is it fanciful to believe that the United States could go a long way toward that stage, if all we did were to eliminate the waste in energy that has plagued our industrial and social complexes for too long.

There are thousands of examples of the waste of precious energy caused by faulty or inefficient use, but perhaps the most striking is shown by the new World Trade Center building in New York City, where it is estimated that only 10-percent-use-efficiency is obtained in lighting, heating, and cooling the complex. This is roughly equivalent to a householder setting his thermostat at 90 degrees, opening all the windows and doors in the house, and paying a heating bill nine times higher than with the thermostat set at 68 degrees and every window and door closed. Nobody likes the energy shortage, except those who will reap handsome profits from it, but if it brings home to us the necessity to conserve energy, rather than waste it, it may yet prove to be a blessing. We have been far too wasteful for far too long.

It is perfectly natural that most Americans will think of the energy crisis in terms of how we will be affected at home—whether the corner gas station will run out of gas for the family car; whether the local power or gas company will run out of fuel for heating and cooling the house; whether the public transportation companies will be so restricted in their use of fuel that buses will not run or airplanes will not fly. And with these everyday, personal considerations in our minds, it is easy to overlook other implications of the fuel shortage which pose for the United States questions of deepening import. I refer specifically to the ability of this Nation to maintain adequate fuel supplies for our military forces at home and overseas. In Europe, in Japan and the Pacific, and in other areas of the world where our forces are performing peacekeeping duties, the shortages of fuel are even more acute than they are in the continental United States.

One does not have to be skilled in matters military to know that armor and aircraft that lack fuel, instantly lose their potency as a visible deterrent. One does not have to be skilled in economics to know that if and when the fuel that is now in such short supply worldwide once again becomes available, the price of that fuel will have skyrocketed, and the cost of maintaining the American forces overseas will become an even more serious drain on the Treasury than we have heretofore experienced.

It might behoove us to take a very critical look at our current commitments in Southeast Asia, where the American air presence in Thailand is a very significant weapon in the Government of South Vietnam's arsenal, despite the "peace with honor" that allegedly reigns in Vietnam. How will we fuel these aircraft? Or, for that matter, how will we continue to supply the South Vietnamese military forces that have been wholly dependent on American supplies for more than a decade? I, for one, cannot quite visualize the spectacle of tankers leaving our gulf coast or western ports with fuel loads for the Governments of Thailand and South Vietnam while American factories and foundries are laying off thousands of workers, or domestic airlines are furloughing thousands of pilots, flight attendants, and maintenance mechanics for lack of energy fuels.

Perhaps I am incapable of seeing the wider picture, but I feel a much closer kinship and sympathy with the people of Salem, W. Va., than I do with the people of Saigon. I am much more deeply concerned with the employment levels in Beckley, W. Va., than I am with fuel sufficiency in Bangkok. It may be thought that I am citing extremes, but these are matters that the administration is going to have to make perfectly clear to the American people, and matters for which the administration is going to have to find answers acceptable to the American people.

I am perfectly well aware of the breadth, and in most cases, the necessity of certain military commitments abroad, but I believe the time has come when the U.S. Government will have to make some very hard decisions on what our fuel priorities are as well as what our military commitment priorities are. The amendment proposed by the distinguished Senator from New Hampshire to cut off funds for Pentagon fuel shipments to Indochina, and adopted by the Senate by a vote of 60 to 33, is a straw in the wind. The vote was symbolic of the feelings of the large majority of Senators, on both sides of the aisle, and reflects what I believe are the feelings of the vast majority of the American people.

What was not included in the amendment offered by Senator COTTON, but which also will loom large in our future fuel plannings, is how we will handle the vast fuel requirements by our 7th Army in Europe. As long as the oil embargo by the producing states of the Persian Gulf continues, West Germany in particular will be severely restricted in its ability to provide fuel for our NATO forces. If the 7th Army, and its ancillary forces, are to continue to fulfill their roles as peace-keeping deterrents, adequate fuel supplies are an absolute necessity, and shipping that fuel from the United States is the only viable alternative. Apart from the bulk fuel itself, a substantial quantity will be necessarily used to transport the fuel to European ports, and at a significantly increased cost. The U.S. Government will have to make a hard decision, and quickly, whether to take such steps, or whether to appreciably reduce the U.S. military presence on the European Continent.

The Warsaw Pact nations, responsive as they are to the winds of Soviet Russian policy, are assuredly giving this weakening of the U.S. position in Europe a great deal of thought. Détente is a gossamer thing, when it is balanced against what appears to be national self-interest, or weighed against what would seem to be the potential rewards of territorial acquisition. I do not claim that Soviet Russia, or any of its satellite countries are poised to leap on any weakness in the NATO military alliance, but, taking the history of Europe as a guide, the possibility exists. It is, therefore, imperative that the United States immediately make a firm decision as to maintaining our presence in Europe at its current levels, regardless of domestic fuel requirements, or reducing our conventional military commitment, and replacing it by other deterrent means, of which any potential aggressor will be made fully aware.

Mr. President, I repeat that, while our everyday domestic energy shortages are the shortages which will most intimately affect the lives of Americans in the coming months and years, the administration has a solemn duty to the Nation to explain to the American people what could be the consequences of the global energy shortage, in terms of our national security. It is incumbent upon the U.S. Government to inform the people in terms they can respond to, whether pursuit of our current foreign policy in Europe, the Middle East, and in Asia, given the certainty of a continuation of current energy fuels shortages, contains the possibility of jeopardizing the future economic and, hence, military security of the United States.

It is time for the Government of the United States to decide whether to use its enormous international influence in an attempt to create an economic bloc comprised of the industrially developed countries of the Common Market, Japan, and the United States as energy fuels users in order to present a solid mutual-interest front to the energy fuels producers. A continuation of the fragmented one-for-one none-for-all attitudes currently prevalent among the oil-consuming industrial nations can only make easier and more effective the policy of sanctions against them now being followed by the Arab States.

The Arab/Israeli peace talks are most unlikely to have a bearing on the world oil situation for many months to come, if, indeed, any kind of peaceful agreement emanates from the Geneva conference. It would be foolish for the Government of the United States to place great reliance for a solution of the energy crisis upon a mutually satisfactory pact emerging from Geneva. There are too many imponderables in Arab/Israeli relationships for such blissful reliance.

President Nixon has declared "Operation Independence" by which it is planned that the United States shall be self-sufficient in energy needs sometime in the 1980's. This is a most laudable goal, and one for which this Nation must strive to the utmost. It is not possible at this time to conclude that this goal will be reached within the projected time frame. Presently, there is a divergence of opinion whether nuclear energy, upon which the current administration places heavy reliance, will be sufficiently developed to make a meaningful contribution to the national energy picture before the end of this century.

The fast breeder reactor process, which is the nuclear industry's ace in the

hole, may well turn out to be thermodynamically impossible, and it will be wise that we concentrate much of our technological and financial efforts toward the refinement of less esoteric energy sources which we know will produce. I feel confident that the overwhelming vote in the Senate in favor of the National Fuels and Energy Act of 1973 will become an important milestone on the road to greater energy security for this Nation, and that those of us who voted for this measure will be able to look back with pride and satisfaction on our casting of that vote.

Mr. President, it is just within the bounds of possibility that the energy crisis we face is slightly less critical, and will be of shorter duration than is currently supposed, but until we can say with certainty that our domestic production of energy is at a stage where this Nation is impervious to external threat or sanction, at any time, or for any reason, we must not slacken the drive for self-sufficiency that has been generated. Nature has given America an abundance of the natural resources we need—let it not be said by succeeding generations that our ingenuity and determination were not equal to the task of properly utilizing that abundance and planning wisely for the Nation's future.

SENATOR JACOB K. JAVITS' 25TH ANNUAL REPORT, 1973

Mr. JAVITS. Mr. President, I am presenting my 25th annual report to the people of New York State on my own activities and the work of the first session of the 93d Congress.

In my view, the November 7 action of the Congress to override President Nixon's veto of the war powers resolution was the single most important action of the Congress in the 1973 session. The war powers resolution, of which I have the privilege to be the original author, should put an end to the post-World War II practice of unilateral Presidential exercise of the war power which culminated in the tragic U.S. involvement in the Vietnam war and should restore to the Congress and the people a meaningful role in the critical question of war or peace.

The war powers resolution establishes a methodology which must be observed in committing our Nation to war by assuring that Congress must concur in the transformation of an incident into a war. It is nonetheless true, as I have been the first to say, that the methodology cannot of itself guarantee that wisdom and prudence will prevail—any more than the due process of law and a jury trial can guarantee that justice will be done. The fruits of the war powers resolution will be no better or worse than the use which is made of it by future Congresses and future Presidents. But the vehicle is there to use, and that is a great innovation.

Much of the interest of the country this year has focused on the so-called "Watergate scandal," and that concern has, of course, been intense here in the Congress. We have viewed with mounting dismay the successive revelations of corruption and deceit which have brought our country to the brink of constitutional crisis. No matter what the personal consequences for any one man—even the President—this crisis will be a test of the strength and justice of our democratic system. Shaken by the resignation and plea to a criminal charge of the Vice President, the indictment of two Cabinet officers and of members of the President's own staff, and appalled at the apparent lack of moral sensitivity at the highest levels of government, we enter the new year with trepidation but hope, for while grinding slowly, the wheels of justice are turning and the American system is working.

During the year, I have followed closely and supported the work of the Senate Watergate Committee. Also, I early and strongly protested the firing of Special Prosecutor Cox and the forced resignations of Attorney General Richardson and Deputy Attorney General Ruckelshaus. Also, I cosponsored the legislation to allow the courts to appoint a new Special Prosecutor who could not be dismissed by the President. This bill was reported by the Senate Judiciary Committee but action by the full Senate was postponed temporarily in view of satisfaction with the work of Special Prosecutor Leon Jaworski.

I urged the President both publicly and privately to make the most complete disclosure of all Watergate tapes and documents of data on his personal finances.

Finally, now that we have a new Vice President, I believe the interests of the Nation are best served by having a vote in the House of Representatives on the impeachment question at the earliest time. Certainly this vote should take place no later than the end of March 1974, and I believe the House Judiciary Committee can issue its report well within that time. Also, indictments and other legal proceedings should be settled by the courts most expeditiously, for our country cannot move through a period of national emergency such as we face this winter while questions are pending about the President. Should the House vote a bill of impeachment it will then be sent to the Senate for trial. I stand ready and willing to hear the facts and the evidence without personal or political bias and to do my duty to judge fairly in the best interests of the Nation as the Constitution and my conscience demand.

WAR IN THE MIDDLE EAST

The outbreak of hostilities in the Middle East presented a great challenge to U.S. diplomacy which under Secretary of State Kissinger resulted in the cease-fire resolution adopted by the United Nations on October 22. During the fighting, the Senate adopted a resolution, of which I was a principal sponsor, expressing U.S. support for an end to the conflict and for a withdrawal to the previous positions of the parties before the 1973 Arab invasion began and calling upon the Arab States and Israel to negotiate an end to their conflict.

The military situation required that these diplomatic moves be effectively and immediately supplemented by significant U.S. assistance to restore Israel's arsenal of defense. On October 18, I joined with Senator HUMPHREY and 65 other Senators in introducing Senate Resolution 189 which urged the continued flow of Phantom aircraft and other equipment essential to enable Israel to defend itself and deter further aggression.

The administration subsequently requested congressional approval of $2.2 billion in emergency military assistance for Israel which I regard as one of the most crucial measures in the cause of freedom to come before this Congress and I am pleased that the funds have now been appropriated by the Congress.

Also, I strongly supported the earmarking of $300 million in military credit sales to Israel included in the Foreign Assistance Act as it was approved by the Senate on December 6 by a vote of 44 to 41 and sent to the President for his signature and enactment into law.

SOVIET JEWRY

In our search for stability in our relations with the Soviet Union we must not sacrifice our dedication to freedom and human dignity. Jews and other minorities in the U.S.S.R. still live under the gravest disabilities, including denigrating restrictions on emigration. Thus it is important that efforts continue in this Congress to approve the Jackson amendment to the East-West Trade Relations Act which would deny most-favored-nation treatment to the Soviet Union until the restrictions are ended. I am the principal author of the inclusion in the State Department authorization bill of $36.5 million in settlement assistance to Soviet Jews emigrating primarily to Israel. This legislation was signed into law on October 18 and the money has now been appropriated by the Congress. I joined with Senator JACKSON in reintroducing the Jackson amendment on April 10.

Also, the Congress adopted the resolution I sponsored commemorating the 30th anniversary of the Warsaw ghetto uprising.

EUROPE AND THE COMMITTEE OF NINE

The discordant notes during and just after the Yom Kippur war among the members of the North Atlantic Alliance have underlined most sharply the need for greater cooperation between the United States and our European allies. A major effort in this respect has been the Committee of Nine, of which I have had the honor to serve as Chairman. In September 1971 by order of the North Atlantic Assembly, the Committee of Nine was established to study and make recommendations on the future of the North Atlantic Alliance.

The Committee submitted its final report to the North Atlantic Assembly in its 18th annual session in Ankara, Turkey, on October 27. The final report was received by the Assembly which referred the report to the various NATO parliaments and the heads of numerous intergovernmental organizations of Europe.

The final report could play an important role in the formulation of a declaration of Atlantic unity, the subject of present United States-Europe negotia-

tions, and the general composition of the North Atlantic Alliance in the decade ahead.

First priority in U.S. foreign policy still must be given to restoring our frayed relations with Europe, the central area of U.S. interests in the world. Western Europe is now in the process of working toward economic and some political unity within the expanded European Economic Community. The changed conditions in Europe, as well as the new shape of international alinements emerging in the post-Vietnam era, require a new kind of Atlantic partnership. Any new partnership must also involve a common approach to energy problems since Europe and the United States have such a large stake in finding solutions to this problem which will be with us for sometime.

INDOCHINA: THE SMOLDERING CRISIS

While an "Agreement on Ending the War and Restoring the Peace in Vietnam" was signed in Paris on January 27, 1973, the continued bombing over Laos and Cambodia had no legal or constitutional justification in my judgment, and, for that reason I strongly supported the May 31 vote of 63 to 19 by the Senate to bar the use of funds to support U.S. combat activities in, over, or from the shores of Laos, Cambodia, North Vietnam, or South Vietnam. That legislation was vetoed by the President on June 27 and the House of Representatives failed to override the veto by a narrow margin. On June 29, by a vote of 64 to 26, the Senate agreed to a compromise measure—which I helped to devise—barring funds for U.S. combat activities effective August 15. This was signed into law by the President on July 1.

With respect to the continuing tragedy of the 1,300 American servicemen still listed as missing in action and unaccounted for by the North Vietnamese and their allies, I have been in frequent contact with the State Department and the Defense Department, and I have been assured that the U.S. Government is meticulously exploring all avenues and will follow up all clues to account for each American lost in Southeast Asia. I support the administration decision that no funds for the reconstruction of North Vietnam will be requested and that negotiations on reconstruction will not proceed until the North Vietnamese and their allies adhere to the provisions of the Paris peace agreement respecting a strict accounting of the 1,300 American MIA's.

CHINA AND JAPAN

On the question of ending the isolation of the People's Republic of China from the West, a major step—which had my support—was taken this year: The exchange of liaison offices between Peking and Washington. That is continuing evidence of sophistication and maturity on the part of American policymakers and of the receptiveness of the American people to President's Nixon's initiative respecting United States-China relations.

Japan continues to be our most important ally in East Asia. A close, cooperative United States-Japan relationship is the cornerstone of our policy in Asia, a point which I have constantly emphasized. There remain outstanding differences respecting trade and monetary issues that must be resolved. President Nixon's second meeting with Prime Minister Tanaka and Secretary of State Kissinger's trip to Tokyo were important and constructive steps toward those ends.

I have reintroduced the Japan-United States Friendship Act to set aside a portion of the funds to be paid by Japan to the United States pursuant to the Okinawa Reversion Treaty to fund cultural, artistic, and scholarly exchanges between our two countries. This will help assure mutual understanding and cooperation between the United States and Japan—a precondition for continuing peace and security in Asia.

ARMS CONTROL AND NATIONAL DEFENSE

On March 11, 1973, the SALT II negotiations opened in Geneva. Although concrete results are not expected for some time, it is my hope that qualitative restrictions, such as the limiting of the MIRV, as well as permanent quantitative limitations, can be agreed upon, respecting offensive strategic weapons. With respect to the $81.1 billion fiscal year 1974 Department of Defense budget request, I believe that our Nation requires strong security, but that we need close scrutiny of all weapons systems and of defense spending. I supported those amendments to the military procurement authorization bill that, in my judgment, would have effectively followed these principles on defense expenditures without impairing our Nation's security.

On the other hand, I opposed attempts to reduce the level of U.S. forces in Europe under NATO because, in my judgment, to do so would signal a lessening of the U.S. commitment to Europe's continued stability and security and, therefore, that Europe will tend to lean over to the overwhelming presence of the Soviet Union, which could be very harmful to the United States.

SECRETARY OF STATE KISSINGER

On September 21, by a vote of 78 to 7, the Senate confirmed the nomination of Dr. Henry A. Kissinger to be Secretary of State. In my judgment, it is a great commendation of our country, its institutions, and its people that Dr. Kissinger, a naturalized citizen and a refugee from Hitler's Germany, could attain the highest office in the Cabinet. While I have not necessarily agreed with Dr. Kissinger on all matters of national policy, he has demonstrated a capacity and a conviction in the service of our Nation which has properly caused him to be hailed already as a most outstanding and successful American.

During Secretary Kissinger's confirmation hearings, considerable controversy arose over his role regarding wiretaps and other surveillance of 17 individuals in the executive branch and the news media. He was cleared, but in view of that I sponsored a resolution, adopted by the Foreign Relations Committee, to make a full examination of the use of electronic surveillance of U.S. citizens related to the conduct of foreign relations in order to establish more satisfactory guidelines and more effective congressional oversight.

ENERGY

The year 1973 can properly be termed the year the energy crisis surfaced in full flower. Unless the burdens of shortages in that field are equitably shared, our economy and lives will be seriously affected.

I have long advocated policies which would increase domestic energy resources. I supported the Alaska pipeline bill, now signed into law by the President. I worked to increase domestic refinery production and to speed the siting with adequate safeguards of nuclear powerplants long before this crisis came upon us. Last summer, I urged voluntary allocation of crude oil supplies in the interest of the fair sharing of home heating oil and industrial petroleum products. Faced with critical shortages of those supplies I supported mandatory allocations—now enacted—requiring that priority needs be met. I cosponsored the Emergency Energy Powers Act, S. 2589, which gives to the President the authority needed drastically to cut consumption and increase our energy supplies. I authored amendments to that act which would retain in Congress the authority to end the emergency measures if they prove unnecessary or unfair and which direct the United States to negotiate with other Western oil-consuming nations to develop a common front to meet the threat of the "oil weapon" of certain Arab States.

I have urged legislation that would lead to the United States becoming self-sufficient in energy as soon as possible. As examples, I cite S. 1283, a massive research and development proposal so that we may utilize our resources of coal, shale oil and geothermal energy, as well as S. 2560, a bill to begin development of solar power for heating and cooling. I am cosponsoring a bill to set up a corporation to develop areas that offer substantial potential energy conservation, S. 2462, and for energy conservation at the Federal level, S. 2479. Enactment of these measures would contribute greatly to the drive to make the United States self-sufficient in energy.

The new Federal Energy Emergency Administration constitutes the governmental machinery that will produce a national energy strategy to deal with the current nationwide energy emergency. The bill establishing the new administration, which was written in my committee, provides the FEEA with the manpower and expertise needed to develop a national energy policy designed to avert widespread hardship to our people and damage to our economy as a result of energy shortages. By requiring that Federal policies in this area be developed and executed in an environment of openness and public debate, under the highest standards of administrative due process and appeal, I have sought to assure full public accountability in the FEEA.

Beyond this important measure, the Senate Permanent Investigations Subcommittee—of which I am a member—has in the past and will continue in the future to conduct careful legislative oversight of all actions undertaken during the current energy crisis by both the oil industry and the executive branch of

Government. In addition, my committee has made substantial progress toward the enactment of a new Energy Research and Development Administration (ERDA) which will expend $22.5 billion in the next 10 years to enable the Nation to become self-sufficient in energy resource development.

Finally, I have made every effort to see that environmental standards are upheld as much as possible in the emergency situation. I have supported limited exceptions to laws such as the National Environmental Policy Act and the Clean Air Act only to carry us through the emergency. It is imperative that progress made in cleaning up our environment not be turned around because of the energy crisis.

The Senate and House have passed comprehensive legislation—which I supported—to aid the bankrupt Northeast railroads. This measure will help restore to the region a viable and efficient rail transportation system which we so urgently need. As a result of amendments that I introduced, small profitable railroads will be better able to survive this massive railroad reorganization and the New York City commuter railroads will be in a better position to provide economical and efficient service and will be entitled to subsidies from the Federal Government.

During consideration of emergency energy bill, I made further efforts to free up the urban portions of the highway trust fund for mass transit use during the energy emergency. Although this was defeated, the energy legislation does contain provisions authorizing the Administration to develop plans for mass transit aid as well as expanded intercity passenger rail service. I will continue to work for expanded Federal Government assistance to both of these areas of transportation.

DOMESTIC ECONOMY

The year 1973 produced two more "phases" of the President's economic stabilization program. Phase III was announced by the White House last January. It abandoned mandatory controls on all but three sectors of the economy and I stated then that I did not believe it was the time to abandon mandatory wage and price controls. Unfortunately, my predictions were true. For almost 6 months steep increases in food and industrial prices plagued the country leading to a freeze on all prices imposed on June 13. The freeze did not prove effective as food production was cut back with retailers, distributors, processors and food producers caught in a "crunch".

In August, phase IV was implemented. The end of the freeze produced an incentive for increased production by allowing a passthrough of costs. There were price increases, especially in food, but the American consumer appeared ready to pay more for available food rather than pay more when supplies were limited.

One of the major reasons for the sharp increase in food prices was the abnormal foreign demand for U.S. agricultural products, particularly grain. The undetected, or unnoticed and uncontrolled sale of one-quarter of our wheat crop to the Russians was a serious error which must not be repeated.

To prevent a recurrence of such a sale I introduced the Export Priorities Act, which would regulate the amount of U.S. agricultural exports through a licensing system. A sufficient supply to permit a stable American market and meet demands of U.S. consumption would first be set aside, with the remainder available for export. This proposal is currently before the Senate Banking Committee.

When the President announced phase IV, he again emphasized his desire to return to the free market system and set the end of this year as a goal for terminating controls. I stated then, and present conditions bear me out, that while I share the President's belief in a free market system under normal conditions, talk of early elimination of controls is not realistic and is a mistake. To live securely, we are going to have to live with controls.

INTERNATIONAL ECONOMY

This year I supported foreign aid legislation—which has been enacted—representing a new initiative in the U.S. effort to play a constructive role in developing nations. This legislation emphasizes funding in the areas of agriculture, population growth, health and education, designed to help the developing nations focus their resources on the problems that affect the vast majority of their citizens.

In 1973, committees in both Houses have held hearings on the Overseas Private Investment Corporation, a Government agency which insures development-oriented U.S. investments in developing nations. I sponsored the legislation which created this agency in 1969, and have actively participated in legislative oversight to insure that OPIC fulfills its proper developmental purposes and I am presently involved in legislation to provide for its future.

INTERNATIONAL MONETARY REFORM

In 1973, I strongly urged the United States to seek effective and practical international monetary reform because the present system of nonrules could hamper the growth of world trade. One step should be a gradual withdrawal of gold from the international monetary system so that it can take its proper place as a commodity, owned by Americans and others as is any other commodity. In connection with that proposal, I have urged that the U.S. Treasury begin the sales of some of its gold stocks to licensed domestic users. The recent decision by the central banks of several major industrial countries, to do away with the two-tier gold market, opens the way for the step I have urged.

TAX POLICY

I believe all of us agree that there are inequities in our tax system. It is especially disturbing to me that low- and middle-income Americans carry the heaviest burdens of those inequities which should be borne more ratably by those in the higher income brackets in better proportion to income. The Treasury Department indicates the aggregate of those advantages, at more than $40 billion annually.

I have urged that a Tax Reform Commission take a long-term look at our system and come up with suggestions for reform within a year of starting its work. I first made this proposal when the Secretary of the Treasury indicated the administration was working on its own reform proposals. When they were abandoned early this year, I introduced a Tax Reform Commission bill. Had it then been adopted, we would already have received an interim report and a set of final recommendations would be coming to us in a few months.

I supported a recent amendment to the debt ceiling legislation that would have strengthened the minimum tax which seeks to tax those with a high income who sometimes pay small taxes because of large deductions. This amendment was defeated but I continue to feel that some tightening up in the minimum tax is essential to increase the fairness of our tax system.

Nothing has taken place to reduce the need to look at our tax structure and determine how we can make it into a fair and flexible system.

REVENUE SHARING

As the Federal revenue sharing program has reached its first anniversary, I must report its performance is mixed. No sooner had the program begun than the Federal Government announced cutbacks in categorical grant-in-aid programs totaling billions of dollars. Many jurisdictions—including New York City—estimated that the cutbacks would come to more than they were getting under revenue sharing. Nor has the administration of revenue sharing been completely efficient. I was deeply concerned that the Treasury Department—which writes the revenue sharing checks—planned to assess—in 1 pay period—more than 1,000 counties, towns, and villages in New York State alone for overpayments made in previous pay periods. I led 23 Senators in urging the Secretary of the Treasury that the assessments be made more equitably—over a longer time period.

As one of the earliest proponents of legislation for Federal revenue sharing, I remain convinced that it must fulfill one of its clear purposes: to help heavily taxed industrial States. New Yorkers carry one of the heaviest self-imposed tax burdens in the Nation. They provide one of the most progressive systems of State education and other impressive State services as a direct result of that burden. But, New Yorkers give far more to the Federal Government than they receive. The disparity is natural but its size is inequitable and I shall continue to press to correct that situation.

It has been brought to my attention that, in some cases, Federal revenue sharing funds have not gone to the social service programs for which they were intended, but to high-visibility items such as police and fire vehicles and public buildings. The distribution of revenue sharing moneys is a Federal function, but the proper spending of

these funds depends upon a vigilant and vocal local constituency.

CRIME AND DRUGS

I supported efforts designed to strengthen the capability of our police departments to obtain professional training assistance through the law-enforcement education program. I also worked to eliminate the paralysis in local criminal courts in many parts of the Nation, and similarly, sought to expand LEAA programs dealing with the reform of our corrections system.

During 1973, I introduced several bills designed to have a measurable impact upon the urban crime problem by concentrating $300 million for each of the next 3 years in the central cities having the highest crime rates in the country; developing a broad based methadone maintenance program; developing innovative manpower training and job placement programs in the rehabilitation of offenders; formulating national standards relating to the treatment and rehabilitation of inmates in correctional institutions throughout the Nation; and developing a national criminal justice professions development program to attract more qualified people to all of the professions involved in the work of criminal justice.

I also vigorously supported legislation to outlaw the so-called Saturday night special handgun which has been so instrumental in the commission of violent crimes and particularly in homicides against policemen. In this latter connection, I supported an important bill designed to provide compensation for the victims of crime as well as for the widows of law-enforcement officers who are killed in the line of duty.

I proposed and saw enacted legislation designed to improve Federal, State and local law enforcement in the drug area. Following introduction of my bill, President Nixon submitted to Congress a major plan designed to reorganize totally and upgrade the Federal drug enforcement agencies within the Department of Justice. The new Drug Enforcement Administration brings together the heretofor fragmented and competing efforts of the U.S. Bureau of Customs and the Bureau of Narcotics and Dangerous Drugs. This streamlined organization has already begun to deal more effectively with illicit drug trafficking and smuggling throughout this country and abroad.

In order to provide a legal remedy for innocent citizens who are victimized by illegal mistaken raids by Federal narcotics agents, I cosponsored legislation to enable future victims of such conduct to obtain redress in court in cases involving such deplorable conduct.

HOUSING

The year 1973 started with a freeze being placed by the administration on all subsidized housing programs and many community development programs. I strongly opposed this freeze and have worked hard during the year to try and get exceptions for meritorious projects throughout the State. Fortunately, quite a few projects have been given exceptions and are proceeding to construction. I have strongly supported an extension of the existing housing laws until such time as adequate substitutes are presented to the Congress. While there has been a temporary extension of these programs, major housing legislation will have to wait until 1974. We must see to it that adequate housing continues to be provided for all those who need it.

My bill to create a National Institute of Building Sciences which would help develop nationally accepted standards for local construction and which would serve as an authoritative source on the latest advances in construction has been included in an omnibus housing bill which will undoubtedly be passed by the Senate in 1974.

Another bill I have offered, the Neighborhood Conservation Act, seeks to stimulate the upgrading of existing low- and moderate-income housing and to generate private capital for housing repairs, maintenance and rehabilitation. I expect that this proposal will also be included in any omnibus housing legislation which is passed in 1974.

ENVIRONMENT

This year I have vigorously supported all measures which sought to strengthen environmental protection. I worked to see that new legislation which recently passed the Congress for allocation of grant money for sewage treatment plants dealt in a fair way with the problems and needs of New York State.

I cosponsored S. 268, the Land Use Policy and Planning Assistance Act, which passed the Senate earlier this year and which seeks to provide money for more comprehensive land use planning which is so desperately needed to make sure development is carried on in an orderly manner with proper concern for environmental balance.

I also supported a bill to curb the excesses of stripmining which passed the Senate earlier this year; a bill to provide for testing and establishment of programs for safe drinking water in communities across the State and country; and the bill recently enacted into law to protect endangered species.

I will continue to work for and support measures which seek to improve our environment and resist attempts unnecessarily to erode the progress that has been made in the last several years.

HEALTH

The year 1973 was an important year for health legislation. I introduced a national health insurance bill designed to provide health care to all Americans as well as to rationalize medical care service and facilities. I also introduced the administration's Health Maintenance Organization bill and authored an amendment to develop HMO's, which, in great measure forms the basis of the proposal supporting the creation of HMO's which is being enacted into law.

Two new laws—Public Law 93–45 and Public Law 93–154—assuring the continuation of the Public Health Service Act and developing emergency medical services are the result of bills I cosponsored and helped fashion.

The Senate-passed bill to safeguard and protect the rights of people involved in biomedical research, which will soon become law, was based upon bills I authored and introduced.

Other bills I have introduced in the field of health legislation would provide consumers increased protection from unfit and adulterated food, assure the safety and effectiveness of medical devices and require disclosure of ingredients on food labels.

I have also authored a bill of rights for the mentally retarded; and, another to establish a national commitment for the diagnosis, control, and prevention of a killer disease of children, the National Tay-Sachs Disease Act.

LABOR

The greatest disappointment in 1973 was our failure to enact into law legislation to raise the minimum wage to reflect the increase in the cost of living since 1968 when the present minimum wage of $1.60 an hour was set. I was chief cosponsor of a Senate-passed bill which would have immediately raised the minimum wage to $2 and expanded the scope of the law to cover additional low-income workers. I authored provisions which would have extended the prohibition against child labor to children working in agriculture. Although a conference reported legislation which received congressional approval, the measure was vetoed by the President and the House failed to override.

I was cosponsor of a successful amendment to the Taft-Hartley Act to permit joint administration by unions and employers of funds to defray the cost of legal expenses for employees.

The year 1973 also saw the beginning of a serious effort to enact Federal legislation to achieve workmen's compensation reform. In June, I introduced together with Senator HARRISON WILLIAMS of New Jersey, chairman of the Senate Labor Committee of which I am the ranking member, S. 2008, a bill designed to remedy the defects and inadequacies in existing State laws as documented in the recent report of the National Commission on State Workmen's Compensation Laws, a commission established as a result of legislation I authored. I expect this program to become law.

Finally, I was pleased that the recently enacted legislation granting a social security increase also contained my amendment which should make New York State workers eligible for an additional 13 weeks of Federal-State unemployment compensation in addition to the regular 26 weeks.

PENSION BENEFITS

On September 19, 1973, the Senate voted 93 to 0 to approve the Williams-Javits bill, a comprehensive pension reform bill which provides for pension vesting, funding, plan termination insurance, portability, fiduciary standards, disclosure and new tax deductions for employees to establish their own pension plans. Based upon bills I have authored since 1967, H.R. 4200 culminated a 3-year effort by the Senate Labor Committee to focus public attention on inequities in private retirement and welfare funds.

Unfortunately, due to committee jurisdictional problems in the House of Representatives, the House was unable to act on pension legislation this year. How-

ever, the House was unable to give this legislation top priority early next year, and I am confident pension reform will make history and will become law in 1974.

POVERTY AND WELFARE REFORM

This year was one of the most difficult and disruptive in terms of the Nation's efforts to eliminate poverty and provide training and jobs for unemployed and underemployed persons, as the administration sought to effect changes in programs unilaterally and almost "overnight" through administrative actions alone, often in definance of the express will of the Congress.

But these attempts were halted by intervention of the judicial or legislative branches insisting that the law be followed, and the year ended in a spirit of cooperation between the Congress and the Executive in these important areas that has already yielded positive results.

The administration sought early this year to dismantle OEO and the antipoverty program as we now know it, in violation of the Economic Opportunity Act Amendments of 1972, which I had coauthored, which provided for a 2-year extension through June 1974 of the programs; but the courts ordered this dismantlement action halted, as I and others had urged in a "Sense of the Congress" resolution and appropriations are now being made available for continuation of the agency and the programs through next June.

The essential current legal services program—especially the "backup" centers—were in this process subjected to "on again-off again" funding, but fortunately these programs too have been generally continued, and, in response to my request to OEO, the "backup" centers have been provided continued funding as well pending establishment of a new legal services corporation.

Similarly, the administration refused to spend funds appropriated by the Congress in 1972 for the Neighborhood Youth Corps summer job program for the summer of 1973. But again, based upon the intent of the Congress, as we had expressed it, the courts ordered that the funds be spent and the summer job program went forward, although at the last minute.

The administration also sought by regulation to change the focus of child care and other social services programs under the Social Security Act. But legislation which I cosponsored held off these changes until the Congress could act and forced a number of changes in the administration's approach.

By the close of the fiscal year 1973, it was quite clear that if the administration continued on an unilateral course, these actions would only undermine its own objectives of managerial efficiency, decentralization, and getting the most for the taxpayers' dollar; as I urged, on July 31, a course of "domestic rapprochement" was necessary.

Accordingly, I was very heartened when the President included in his second state of the Union address of September 10, 1973, a pledge to seek workable compromises with the Congress in a spirit of cooperation.

We took him up on that offer in the case of manpower training reform legislation, which had been stalled since 1969, and again where the administration had planned to carry out its plans unilaterally.

In a commendable implementation of the President's pledge, the administration held up on the implementation of administration regulations and agreed to work with the Congress on legislation.

The result is the Comprehensive Employment and Training Act of 1973, a bill based on S. 1559, which Senator NELSON and I introduced earlier this year.

This new act which is now becoming law authorizes "such sums as may be necessary" over a 4-year period for comprehensive manpower training, public service employment, and related services to be administered through a new decentralized system of State and local governmental sponsors; importantly, despite previous opposition, the administration has agreed to continue authorities for transitional public service employment, both generally and in especially hard-hit areas, such as exist in New York State, as Senator NELSON and I had urged in sponsoring S. 1560, a bill to continue the Emergency Employment Act of 1971. The new act also includes a number of special provisions which I sponsored or cosponsored to continue to provide authority for the summer job program for the coming summer, to give special attention to the training and employment needs of offenders, to experiment with voucher plans in the manpower field, and to provide for the continuation or expansion of opportunities industrialization centers and special programs for persons whose language is other than English.

Unfortunately, a filibuster blocked complete action this year on legislation reported by the Committee on Labor and Public Welfare, to establish a new legal services corporation, but I hope for it in 1974.

But in this case also, the committee bill is based upon the administration's own bill, which I introduced, and the administration has worked closely with us and it is the No. 1 priority for the coming year.

Other very important items of unfinished business remain, such as continuation of the antipoverty program beyond this June, child development legislation, community economic development efforts, welfare reform, and the need for a real "full employment policy."

But as we seek these authorities, as we shall do, the experience of this year suggests that the administration may join with us in these efforts and whatever the result, that the final will of the Congress and the Executive, written into the law, will be upheld by the courts.

In another area, my amendment to preserve and expedite Federal support for New York children living in foster homes and institutions was adopted by the Senate.

OLDER CITIZENS

This year, the Congress has taken several important steps on behalf of our Nation's senior citizens. I actively supported the 7-percent immediate increase and the 4-percent increase in social security benefits effective June 1974, as well as increased supplemental security income payments to the aged, blind, and disabled, which, beginning in January 1974, would go up to a monthly income of $206.85 in New York State for an individual.

I cosponsored the Older Americans Comprehensive Services Amendments of 1973 which was signed into law by the President—Public Law 93-29—which dramatically strengthens the Administration on Aging and provides extensive authority to improve social and nutritional services to the elderly. In addition, I cosponsored S. 775, the Research on Aging Act, which establishes a National Institute on Aging to study the biological and behavioral aspects of the aging process. That bill passed the Senate and is pending in the House.

VETERANS

With my full support, Congress passed important legislation improving the loan guaranty program for veterans, increasing the disability and death pension benefits for veterans, and establishing a national cemetery system within the Veterans' Administration. I shall continue to work for legislation to give today's veteran the same benefits as veterans of World War II.

Because I have been greatly concerned over the underutilization of their educational opportunities by our Nation's veterans, I sought the release of veterans cost of instruction funds by HEW authorized by the educational assistance allowance amendments, and cosponsored an amendment to the Education of the Handicapped Act, S. 896, which would permit colleges with a 10 percent veteran enrollment to participate in the veterans' cost of instruction allowance program. This amendment passed the Senate and is now pending in the House. I also supported S. 59, which would provide improved medical care to veterans, and S. 284, which would require the availability of comprehensive treatment and rehabilitative services for disabled veterans from alcoholism or drug problems. Both these bills passed the Senate.

AGRICULTURE

The Senate this year passed a comprehensive Agriculture and Consumer Protection Act, S. 1888. I strongly supported the provisions in the act that decreased limit farm subsidies to any farmer to a $20,000 maximum and that revise and extend the food stamp program to insure eligibility to all deserving recipients.

I have throughout the year closely followed the problems being confronted by our State's dairy farmers and have made every effort, including the introduction of an Export Priorities Act, discussed previously, which will help insure that our farmers can receive their feed grains and other agricultural supplies at reasonable prices.

In addition, I also established a farmers task force, composed of farmers and others in agriculturally related industries, to advise me on issues of direct concern to the farming community.

Another effort I am engaged in to assist farmers—and make rural life more

attractive—is the Family Farm Inheritance Act, S. 204, of which I am a cosponsor. This bill would exclude the first $200,000 in value of the family farm from the taxable estate of those farmers who have managed their own farm during their lives and have willed it to relatives who plan to carry on this tradition. Estate tax is usually based on the higher real estate value of land, rather than on its far lower farming value of profitability, and this bill seeks to correct that valuation for family farms.

SMALL BUSINESS

As ranking member of the Senate Select Committee on Small Business, I supported the Senate-passed bill to increase the Small Business Administration ceiling by $2.3 billion to provide additional moneys to the small business community. The SBA has now been funded for the coming months of 1974.

I introduced the Domestic Enterprise Bank Act of 1973 to establish a corporation authorized, among other things, to make and participate in certain long-term low-interest loans and guarantees and to provide technical assistance to stimulate employment opportunities in labor surplus areas and to aid businesses seriously affected by foreign imports or technological obsolescence.

CONSUMER PROTECTION

This year I again sponsored the bill which would establish an independent Federal Consumer Protection Agency. Now supported in principle by the administration, the bill would give an independent advocate representing the consumer interest the right to intervene in all Federal regulatory agencies and in the courts. I expect this important bill to pass next year. I also cosponsored with Senator WILLIAMS legislation to insure equal access to commercial credit for women.

EDUCATION

The Congress this year has proceeded to fund landmark higher education legislation—of which I was a sponsor last year—which places special emphasis on providing assistance to individual students.

The Education Subcommittee, of which I am a member, is completing consideration of measures to expand and extend Federal programs in elementary and secondary education. The subcommittee has approved provisions of which I am the author giving new emphasis to high school equivalency programs, and programs for gifted and talented children, termed those most neglected in American education.

I was successful in opposing moves to cut back New York's share of education funds in favor of other States, moves based on the erroneous contention that New York now receives too large a share. I shall continue my efforts in that area.

Aware that 40 percent of the Nation's schoolchildren travel to school daily by schoolbus, I have authored a series of bills designed to assure the safety of those vehicles, and prevent repetition of tragedies such as the one at Congers, N.Y., in 1972 in which 5 lives were lost and 44 were injured.

I have introduced a civilian GI bill of rights to provide educational benefits to those who have served in the Peace Corps and similar volunteer organizations.

Happily, the Congress has enacted legislation, of which I was an author, to extend and expand arts and humanities programs which have enjoyed strong Presidential and public support.

The Senate passed amendments to the National School Lunch Act which will raise the Federal reimbursement level to federally aided breakfast and lunch programs for the poor. The original bill, because of a change in the formula for computation of the reimbursement rate, would have deprived New York school systems of about $2.4 million. However, I introduced an amendment, which was passed by both Houses, which insures that New York's funding will not be cut because of the formula change.

THE HANDICAPPED

A new Rehabilitation Act—Public Law 93–112—has been signed by the President following two vetoes. The bill contains my provisions to encourage hiring the handicapped in programs under Federal contract or receiving Federal grants and for the homebound.

Public Law 93–76 was also enacted, extending the Javits-Wagner-O'Day Act, which gives priority in Federal contracts to the blind and other severely handicapped.

I reintroduced my bill to give the severely handicapped the same tax deductions now given the blind.

ANNUAL REPORT EXCERPTS

BUDGET CONTROL

For years, it has been recognized that congressional procedures governing the Federal budget process have not been adequate for dealing with the establishment of national priorities. This year, the Senate Government Operations Committee—of which I am a ranking member—developed legislation designed to bring about fundamental reform of the budget process. This bill, which I cosponsored and which passed the Senate and is now in conference, requires the establishment by law of a firm overall spending ceiling on both outlays and new budget authority. The bill would also create standing committees on the budget in both Houses of Congress; establish a congressional office of the budget to assist the Congress in developing a coherent plan for identifying and funding national legislation priorities and require before April 15 of each year the enactment of a concurrent resolution establishing appropriations levels for major categories of spending. Enactment of this legislation will require the Congress to look at all spending and revenue actions together and to relate those decisions to each other. The new procedure would allow both Houses to consider carefully, early in the fiscal year the central issue of what our national priorities ought to be. It would simplify committee procedures and reduce the time consumed in the legislative process, as well as improve the flow of relevant information to Members of Congress on these hard questions. I authored an amendment to the bill which would require consideration of tax expenditures in each stage of the budget process. Tax expenditures are indirect expenditures by way of the tax system which must be compared with direct outlays to get a true budget picture.

THE IMPOUNDMENT ISSUE

The sharp controversy between the executive branch and the Congress over the impoundment of appropriated funds gave rise during the past year to a serious confrontation between the two branches of Government. The constitutional and legal issues were carefully developed in the Government Operations Committee which recommended to the Senate strong anti-impoundment legislation. The Senate passed the bill which requires the administration to expend or obligate impounded funds except those which under law would create deficiencies not intended by Congress, or which have been expressly ratified by congressional action during the 60-day period following receipt of a Presidential impoundment message. Estimates of the fiscal impact of Federal impoundments, upon local governments throughout our State have been extraordinarily high. The estimate for New York City alone is in excess of $400 million in lost Federal aid. This staggering economic loss to New York citizens and taxpayers would be alleviated under the anti-impoundment legislation which I helped to write.

EXECUTIVE PRIVILEGE

In view of the need of Congress to obtain important information from executive branch officials, I cosponsored legislation to establish ground rules for the two branches to observe in any future disagreements over the availability to Congress of information held by executive officials. These rules preclude officials withholding any information or testimony requested by a congressional committee for executive privilege unless the President is willing to intervene to defend the confidentiality of the materials sought. The bill makes it clear that when such a Presidential action occurs, the Congress will weigh the force of the President's claim against its need and that of the public interest for the information in question.

POST OFFICE AND CIVIL SERVICE

I have urged the U.S. Postal Rate Commission to hold the line on increasing postal rates and am continuing my support of legislation which would improve the chances of survival of publications threatened by increased postal rates.

I supported the pay increase for Federal employees under the 1970 Comparability Act, which took effect in October 1973 and actively supported the $20-per-month increase in annuities for Federal retirees who retired from Government service prior to October 20, 1969.

I also supported the Senate-passed bill to increase the Federal contribution to the costs of health benefits for Federal workers.

I have worked vigorously to keep open St. Albans Hospital in Queens. As an alternative to the Department of Defense proposal to close this vital health facility, I have urged that the Veterans' Administration maintain St. Albans as a health care facility. I am pleased that

the Defense appropriations bill passed by the Congress just before adjournment provides that St. Albans shall remain open. I shall continue to do my utmost to prevent the closing of St. Albans.

CAMPAIGN FINANCING REFORM

I supported S. 372, the Federal Elections Campaign Act Amendments of 1973 which passed the Senate early this year. This bill makes improvements in the present, Public Law 92–225, after the Watergate experience. The bill repeals the equal-time provisions for all Federal offices and increases most of the criminal penalties in the existing law. The bill raises the amounts in the present law which candidates can spend out of their own or their family's funds. The amounts in the bill are $100,000 for President instead of $50,000 in present law, $70,000 for Senate instead of $35,000 in present law and $50,000 for Representatives instead of $25,000 in the present law. The bill also sets overall limitations on campaign expenditures which are basically 10 cents times the voting age population in the State or district involved for primaries, and 15 cents for general elections. The present law only provides for limits on media expenses. The last major change the bill makes is to establish an independent Federal Elections Commission which would receive all reports and look into violations of the law. This bill has not passed the House but I am hopeful we will see some action in 1974.

However, I have become more and more concerned that limitations on contributions and expenditures—no matter how stringent—will still not bring enough reform, and for this reason I have come around to the view that a substantial element of public financing is needed for all Federal elections. We have made a start with the taxpayers' checkoff system which will operate in the 1976 Presidential campaign. This provides for $1 out of the taxes of each taxpayer who checks the form at tax time to be used in the Presidential campaign in lieu of private money. Unfortunately, this checkoff has not been highlighted enough and was not extensively used on 1972 tax returns.

To encourage greater public financing, I cosponsored an amendment to the recent debt ceiling bill which would extend the tax check-off system to Senate and House general elections and public financing to Presidential primaries. The existing checkoff amount would be doubled from $1 to $2. Money collected would be apportioned to major parties, minor parties and any new parties that could qualify. While this amendment was not enacted into law, the prospects are quite good for some version of public financing legislation next year.

We have now reached a point where the need for campaign financing reform is so obvious that we cannot continue the status quo. I intend to do all I can to see that meaningful reform leading to some system involving public financing is enacted into law as soon as possible.

ASSISTING NEW YORK STATE

Functioning as full-time extensions of the operations of my Washington office, are offices maintained in Albany, Buffalo, and New York City. Through mail and personal inquiries to those four offices, as well as frequent trips back home, I have been made aware of areas in which I have been able to be of direct assistance to many constituents.

I was able to assist a company in a small community in an appeal to the Department of Defense for redress on a contract. Weighing the merits of the case, the Department of Defense paid the company over $1 million in contract adjustment fees, maintaining the life of the firm and the livelihoods of its employees and their families.

As the effects of Hurricane Agnes continue to be felt in New York, my activities have ranged from helping an upstate community secure an amphibious LARC V vehicle for its volunteer fire department to replace one lost in the Agnes calamity, to aiding farmers in their dealings with the Agriculture Department and the Small Business Administration as they sought assistance following the effects of Hurricane Agnes.

I have also been active in obtaining Federal assistance for projects ranging from the Rockaways Beach erosion project to the Great Lakes flood and erosion control project, among others.

The year 1973 has been a year of tremendous demands, and equally tremendous efforts to meet the needs which prompted those demands.

I have not completed all my set tasks—though I have completed many. But, I have identified them, attacked the obstacles in the way of completion and am working on the needed measures and therefore derive satisfaction as I hope will the people of my State from the accomplishments of the past year.

ACHIEVEMENTS OF THE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS DURING THE 1ST SESSION OF THE 93D CONGRESS

Mr. SPARKMAN. Mr. President, during the 1st session of the 93d Congress the Senate acted favorably on 37 bills and resolutions which were handled by the committee. Of these, 14 have become public law. In addition, our committee reported 32 nominations and all were acted favorably upon by the Senate.

I am listing below information concerning each of the bills handled by the committee in this session, and ask unanimous consent that this résumé be printed in the RECORD.

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

RÉSUMÉ OF BILLS HANDLED BY THE COMMITTEE

S. 356—Mr. Magnuson; passed Senate Sept. 12, 1973; provides disclosure standards for written consumer product warranties against defect or malfunction; to define Federal content standards for such warranties; to amend the Federal Trade Commission Act in order to improve its consumer protection activities; and for other purposes; (Commerce committee, S. Rept. 93–151) S. Rept. 93–280, June 28, 1973.

S. 386—Mr. Williams; passed Senate Sept. 10, 1973; amends the Urban Mass Transportation Act of 1964 to authorize certain grants to assure adequate commuter service in urban areas, and for other purposes; S. Rept. 93–361, July 31, 1973; passed House Oct. 3, 1973.

S. 398—Mr. Sparkman; passed Senate March 20, 1973; Public Law 93–28; extends and amends the Economic Stabilization Act of 1970; S. Rept. 93–63, March 14, 1973; passed House April 16, 1973; approved April 30, 1973.

S. 421—Mr. Sparkman; passed Senate Jan. 23, 1973; provides that appointments to the Office of Director of the Cost of Living Council shall be subject to confirmation by the Senate; S. Rept. 93–1, Jan. 18, 1973.

S. 470—Mr. Williams; passed Senate June 18, 1973; amends the Securities Exchange Act of 1934 to regulate the transactions of members of national securities exchanges, to amend the Investment Company Act of 1940 and the Investment Advisers Act of 1940 to define certain duties of persons subject to such act, and for other purposes; S. Rept. 93–187, May 31, 1973.

S. 513—Mr. Moss; passed Senate Nov. 30, 1973; amends sec. 232 of the National Housing Act to authorize insured loans to provide fire safety equipment for nursing homes; S. Rept. 93–580, Nov. 28, 1973.

S. 590—Mr. Percy; passed Senate May 9, 1973; requires that future appointments of certain officers in the Executive Office of the President be subject to confirmation by Senate.

S. 776—Mr. Cranston; passed Senate Mar. 14, 1973; P.L. 93–114; authorizes the striking of medals in commemoration of the 100th anniversary of the cable car in San Francisco; S. Rept. 93–57, Mar. 8, 1973; approved Oct. 1, 1973.

S. 1141—Mr. Sparkman; passed Senate July 11, 1973; P.L. 93–127; provides a new coinage design and date emblematic of the bicentennial of the American Revolution for dollars and half dollars; S. Rept. 93–244, June 25, 1973; approved Oct. 18, 1973.

S. 1264—Mr. Javits; passed Senate May 2, 1973; authorizes and directs the Secretary of the Treasury to make grants to Eisenhower College, in Seneca Falls, N.Y., out of proceeds from the sale of silver dollar coins bearing the likeness of the late President of the United States, Dwight D. Eisenhower; S. Rept. 93–134, May 1, 1973.

S. 1410—Mr. McIntyre; passed Senate June 27, 1973; Public Law 93–93; amends sec. 14(b) of the Federal Reserve Act, as amended, to extend for three months the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury; S. Rept. 93–248, June 25, 1973; approved Aug. 14, 1973.

S. 1636—Mr. Sparkman; passed Senate June 22, 1973; Public Law 93–121; amend the International Economic Policy Act of 1972; S. Rept. 93–190, June 4, 1973; approved Oct. 4, 1973.

S. 1672—Mr. Cranston; passed Senate May 17, 1973; vetoed; amends the Small Business Act; S. Rept. 93–132, Apr. 30, 1973.

S. 1697—Mr. Cranston; passed Senate May 21, 1973; requires the President to furnish predisaster assistance in order to avert or lessen the effects of a major disaster in the counties of Alameda and Contra Costa in California; S. Rept. 93–153, May 17, 1973.

S. 1752—Mr. Johnston; passed Senate May 10, 1973; prescribing the objectives and functions of the National Commission on Productivity and Work Quality; S. Rept. 93–138, May 8, 1973.

S. 1884—Mr. Bellmon; passed Senate June 28, 1973; permits national banks to invest in agricultural credit corporations; S. Rept. 93–265, June 27, 1973.

S. 1901—Mr. Sparkman; passed Senate June 27, 1973; amends the act of Aug. 20, 1963, as amended, relating to the construction of mint buildings; R. Rept. 93–243, June 25, 1973.

S. 1980—Mr. Sparkman; passed Senate

Aug. 2, 1973; amends the Defense Production Act of 1950, as amended; S. Rept. 93-364, Aug. 1, 1973.

S. 2058—Mr. Williams; passed Senate Aug. 1, 1973; amends the Securities Exchange Act of 1934 to provide for the regulation of clearing agencies and transfer agents, and for other purposes; S. Rept. 93-359, July 30, 1973.

S. 2101—Mr. Proxmire; passed Senate July 23, 1973; amends the Truth in Lending Act to protect consumers against inaccurate and unfair billing practices, and for other purposes; S. Rept. 93-278, June 28, 1973.

S. 2556—Mr. Sparkman; passed Senate Oct. 10, 1973; amends sec. 14(b) of the Federal Reserve Act, as amended, to extend for eight months the authority of Federal Reserve banks to purchase United States obligations directly from the Treasury; S. Rept. 93-457, Oct. 10, 1973.

S. 2795—Mr. Sparkman; passed Senate Dec. 14, 1973; authorizes the Secretary of the Treasury to change the alloy and weight of the 1 cent piece; S. Rept. 93-622, Dec. 13, 1973.

H.R. 3841—Mr. Moorhead; passed Senate May 2, 1973; Public Law 93-33; provides for the striking of medals in commemoration of Roberto Walker Clemente; S. Rept. 93-133, May 1, 1973; approved May 14, 1973.

H.R. 4507—Mr. Camp; passed Senate Oct. 4, 1973; Public Law 93-132; provides for the striking of medals in commemoration of Jim Thorpe; S. Rept. 93-430, Oct. 4, 1973; approved Oct. 19, 1973.

H.R. 4738—Mr. Brotzman; passed Senate Dec. 20, 1973; provides for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado; S. Rept. 93-655, Dec. 19, 1973.

H.R. 5760—Mr. Foley; passed Senate Dec. 20, 1973; provides for the striking of medals commemorating the International Exposition on Environment at Spokane, Washington, in 1974; S. Rept. 93-656, Dec. 19, 1973.

H.R. 5874—Mr. Mills; passed Senate Nov. 7, 1973; establishes a Federal Financing Bank, to provide for coordinated and more efficient financing of Federal and federally assisted borrowings from the public, and for other purposes; S. Rept. 93-166 on S. 925, May 21, 1973.

H.R. 6370—Mr. St Germain; passed Senate May 22, 1973; Public Law 93-100; extends certain laws relating to the payment of interest on time and savings deposits, to prohibit depository institutions from permitting negotiable orders of withdrawal to be made with respect to any deposit or account on which any interest or dividend is paid, to authorize Federal savings and loan associations and national banks to own stock in and invest in loans of certain State housing corporations, and for other purposes; S. Rept. 93-149 on S. 1798, May 14, 1973; approved Aug. 16, 1973.

H.R. 6912—Mr. Gonzales; passed Senate May 30, 1973; Public Law 93-110; amends the Par Value Modification Act, and for other purposes; S. Rept. 93-58 on S. 929, Mar. 8, 1973; approved Sept. 21, 1973.

H.R. 8449—Mr. Barrett; passed Senate Dec. 18, 1973; expands the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes; S. Rept. 93-583, Nov. 29, 1973.

H.R. 10511—Mr. Wright; passed Senate Nov. 20, 1973; amends sec. 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements; S. Rept. 93-457, Nov. 16, 1973.

S.J. Res. 26—Mr. Sparkman; passed Senate Jan. 26, 1973; Public Law 93-4; amends sec. 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding; S. Rept. 93-3, Jan. 23, 1973; approved Feb. 2, 1973.

S.J. Res. 93—Mr. Johnston; passed Senate Apr. 17, 1973; Public Law 93-34; provides a temporary extension of the authorization for the President's National Commission on Productivity; S. Rept. 93-124, Apr. 17, 1973; approved May 14, 1973.

S.J. Res. 112—Mr. Sparkman; passed Senate May 21, 1973; Public Law 93-38; amends sec. 1319 of the Housing and Urban Development Act of 1968 to increase the limitation on the face amount of flood insurance coverage authorized to be outstanding; S. Rept. 93-154, May 17, 1973; approved June 5, 1973.

S.J. Res. 128—Mr. Brooke; passed Senate June 28, 1973; Public Law 93-63; provides for an extension of certain laws relating to the payment of interest on time and savings deposits; S. Rept. 93-264, June 27, 1973; approved July 6, 1973.

S.J. Res. 144—Mr. Sparkman; passed Senate Aug. 1, 1973; Public Law 93-85; provides for a temporary extension of the authority of the Secretary of Housing and Urban Development with respect to the insurance of loans and mortgages, and for other purpuses; approved Aug. 10, 1973.

S. Con. Res. 57—Mr. Brooke; passed Senate Nov. 20, 1973; expressing the sense of the Congress that housing, housing assistance, and community development programs authorized by Congress should be carried out at levels at least equal to the levels prevailing in calendar year 1972, until such time as funds appropriated for such programs are exhausted or the Congress enacts legislation terminating or replacing such programs; S. Rept. 93-518, Nov. 15, 1973.

THOSE TAPES AREN'T FOR FUN

Mr. HUGH SCOTT. Mr. President, an editorial in Thursday's Philadelphia Inquirer discusses the cocktail party use of the White House tape recording. This editorial says it all. I offer it for the interest of my colleagues and ask unanimous consent that it be printed in the RECORD.

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

THOSE TAPES AREN'T "FOR FUN"

The Watergate syndrome is catching. Now a lawyer for the Ralph Nader organization, following the pattern of those he is charging with high-level misbehavior, has behaved in an inexcusable and perhaps illegal way and then has denounced the media for reporting it.

The lawyer is William Dobrovir, who had possession of a White House tape which the Nader organization had been seeking as evidence that President Nixon gave the milk industry a financial bonanza two days after milk lobbyists paid a call on him at the White House.

After fighting subpenas for several months, the White House finally surrendered a copy of the tape, and Mr. Dobrovir promptly played it at a cocktail party in Georgetown "for fun." ABC News reported the incident Tuesday night, and now let's hear Mr. Dobrovir's explanation:

"I remember saying, I've got the tape in my pocket,' and they said, 'Let's play it,' and I said, 'Sure.' "

He goes on to declare: "I made a foolish mistake, but I consider the ABC story a gross breach of journalistic ethics. No longer can anyone in Washington speak freely in the presence of the media."

If anyone has committed a "gross breach" of ethics, it is Mr. Dobrovir. The tapes should be made public—confidentiality is no excuse for concealing evidence of alleged crimes—but by due process of law and in appropriate forums.

We don't think a Georgetown cocktail party is such a forum. We also don't think Mr. Dobrovir has any further place on the Nader team.

RETIREMENT OF JIM WOOLSEY

Mr. STENNIS. Mr. President, Jim Woolsey, general counsel for the Senate Armed Services Committee, has resigned to enter the private practice of law. His period of service to the Senate has been brief, but I believe it has been distinguished, and I want to commend him.

Shortly after his employment, about 3 years ago, our staff director and chief counsel became ill, and Mr. Woolsey assumed a heavy burden in consideration of a draft extension bill and a procurement bill. More recently, he had primary staff responsibility in inquiries into vital military and intelligence problems. To all his work he brought diligence and intelligence, and he will be missed by the committee and its individual members.

As a lawyer, I understand Mr. Woolsey's desire to enter legal practice. I am sorry, of course, to see him leave our staff, but I am confident that he will have a bright future. The country will be fortunate if he comes to serve again in some Government capacity.

Senator THURMOND, ranking Republican on the committee, thinks highly of Mr. Woolsey, and joins in these remarks.

HATS OFF TO NEW HAMPSHIRE'S POSTSECONDARY VOCATIONAL-TECHNICAL EDUCATION

Mr. McINTYRE. Mr. President, I want to take this opportunity today to share with my colleagues the accomplishments of New Hampshire's postsecondary vocational-technical education system.

This is an area which I have strongly supported. It pleases me that this excellent work is being done in my State.

I want to commend Charles H. Green, chief of the division of postsecondary education; Newell J. Paire, commissioner of education; Robert L. Brunelle, deputy commissioner of education; and the many others who have worked and contributed to postsecondary vocational-technical education in New Hampshire.

Mr. President, I ask unanimous consent that the following letter which puts forth in some detail the type of work being done in New Hampshire be printed in the RECORD at this point.

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

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF EDUCATION,
Concord, N.H., December 10, 1973.

Senator THOMAS J. McINTYRE,
Laconia, N.H.

DEAR SENATOR McINTYRE: Because of your interest in postsecondary vocational-technical education, I am sending you a copy of the 1974-76 New Hampshire Vocational-Technical College catalog. The catalog provides comprehensive information on thirty different one- and two-year occupational programs offered by the colleges at Berlin, Claremont, Laconia, Manchester, Nashua and Portsmouth. We believe it to be our finest college catalog publication to date.

Those of us working within the postsecondary system are extremely pleased with the support the State has given to its development. We believe that the Legislative charge

made in establishing the system is being met. The following interesting and pertinent facts tend to support this opinion.

1. The Technical Institute and six Vocational-Technical Colleges offer one-year diploma and two-year associate degree occupational education programs designed to prepare graduates for skilled and semi-professional employment opportunities which exist within the State.

2. New programs and program revisions result from information supplied by business, industry, health, public and private agencies, local institute and college advisory committees, State Advisory Committees, State Board of Education, and national trends.

3. Students enrolled in skilled and industrial-technical programs have generally graduated from high school in a non-college preparatory program. They represent the middle group of college preparatory graduates.

5. In 1974–75, the Technical Institute and six Vocational-Technical Colleges will offer thirty-eight one- and two-year programs in industrial, business, health and service occupations. The programs are open to men and women.

6. A new day school enrollment record of 1,795 students was achieved in September of 1973. In September 1963, ten years ago, the enrollment consisted of 433 day students. Over a ten-year period, day school enrollment has increased 4.1 times.

7. During the 1972–73 academic year, an adult education enrollment of 5,608 students was recorded in courses offered by the Institute and six Vocational-Technical Colleges.

During the same year, an adult education enrollment of 6,543 students was recorded in courses, workshops and seminars offered by other educational institutions utilizing the Institute/College facilities.

8. In June 1973, a record number of 648 seniors graduated from the Technical Institute and six Vocational-Technical Colleges.

9. Of the 648 June 1973 graduates:

84% were employed full-time by October 15;

1% were employed part-time by October 15;

5% will continue education full-time;

1% entered service;

1% are not seeking employment;

6% are seeking employment; and

2% status is unknown.

10. Of the 541 June 1973 graduates employed full-time:

96% are employed in their major or related field of study;

91% are employed in-state; and

83% commute to work from their home town.

11. Based on reported income, the average yearly salary for graduates employed full-time by occupational major is as follows: Business and Management Majors, $6,168; Engineering Technology Majors, $8,560; Industrial and Manufacturing Majors, $7,406; Health and Medical Science Majors, $5,611; and Service Occupation Majors, $7,134.

12. Over 350 business firms were involved in interviewing graduates.

Young people and adults are developing salable skills which are enabling them to take advantage of skilled, technical and semiprofessional employment opportunities within the State. This in turn is assisting the economy of New Hampshire by creating additional demands for goods and services.

Cordially yours,

CHARLES H. GREEN,
Chief, Division of Post-Secondary Education.

MENTAL HARM: A THREAT TODAY

Mr. PROXMIRE. Mr. President, article II of the Genocide Convention states that:

The crime of genocide shall include the act or the intent to cause serious bodily or mental harm to members of the group.

Originally, critics of article II simply did not understand the phrase "mental harm." However, as we have learned more about the tortures used during World War II, we have come to realize that mental harm is no less an evil than physical harm.

Other critics of article II maintain that the phrase "mental harm" is far too ambiguous for use in an international agreement. The implementing legislation for the treaty should dispel such doubts. Mental harm is described as:

Any act which causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or psychological operation, introduction of drugs . . . or psychiatric treatment calculated to permanently impair the mental process.

Critics of article II can no longer state that the language of the Genocide Convention is ill-defined. Nor can they deny that mental harm remains a threat to humanity today. Therefore, I call upon the Senate to decrease the threat of mental harm and ratify the Genocide Convention without further delay.

ROBERT JORDAN WAGER

Mr. RIBICOFF. Mr. President, Robert J. Wager, a most able man, is leaving his position as staff director and general counsel of the Government Operations' Subcommittee on Reorganization, Research, and International Organizations of which I am chairman.

While I shall miss his wise counsel and valuable assistance, I am pleased that he has found a new and exciting opportunity.

Born in Rockford, Ill., in 1934, Bob Wager received his B.A. from Pomona College in 1956, his LL.B. from Stamford Law School in 1959, and an LL.M. from Harvard Law School in 1960.

Bob has devoted most of his professional life to public service. In 1960, when he came to Washington he joined the Justice Department. Later he spent 2 years at the National Labor Relations Board. In 1963 he first came to Capitol Hill, serving as a legislative assistant to Representative JAMES C. CORMAN of California. He left the Hill in 1965 to assist the deputy chairman of the Democratic National Committee.

Bob joined the subcommittee's staff in 1966 as an assistant counsel and was appointed staff director in 1970.

Because the Reorganization Subcommittee has such wide-ranging responsibilities, Bob has had to cover many areas, and he has done so with distinction. He will be best remembered for his dedicated efforts in three areas—consumer affairs, environmental protection, and automobile safety.

Most recently, however, he did an outstanding job directing the staff work on the legislation creating the new Federal Energy Administration. His vast knowledge of reorganization procedure was an essential ingredient of the transfer and authority provisions of the act. Without his able assistance, it would not have been possible to hold hearings, draft amendments, report the bill, write the committee report, and achieve final passage of as fine an act as the Senate has produced. This was an outstanding achievement, and the entire Nation will benefit from his efforts during this time of energy emergency.

Bob Wager will be sorely missed by the members of the Subcommittee on Reorganization, Research, and International Organizations, and the other staff members he has worked with in the Senate. I am sure they all join with me in wishing him well in his new career.

FRIENDS COMMITTEE ON NATIONAL LEGISLATION

Mr. HUGHES. Mr. President, my colleague, the Senator from Oregon (Mr. HATFIELD) recently spoke at the 30th anniversary celebration of the Friends Committee on National Legislation, held at Earlham College in Richmond, Ind. The Senator spoke forthrightly about concerns which I also hold; he stressed the need of repentance from national sins, including the psychology of violence so often manifested in our land. He also stressed the need for a whole new style of leadership that is rooted in sacrificial service, rather than the maintenance of power, and the Senator emphasized the spiritual dimensions to these issues. His remarks have a timely relevance for us all, particularly as this session of Congress and this year draw to a close. I ask unanimous consent that these remarks be printed in the RECORD.

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

SPEECH BY SENATOR MARK HATFIELD

INTRODUCTION

Thank you very much, Milo Ross, for your generous and kind introduction. Distinguished ladies and gentlemen all. You know, I feel very much at home here on this campus, having been a long-time admirer of many of the outstanding spokesmen who have articulated great causes from this campus and the leadership that they have given to these causes. I've been aware of its Quaker heritage, of its great and noble purpose.

FCNL THIRTIETH ANNIVERSARY

But I also tonight am aware of the difference that exists between the gentle, kind, loving Quakers and Friends and those of us who are called Baptists. I say that after watching Ed Snyder up here. Now Ed, typifying the gentle Quaker manner of, you know, urging you to give a little financial support and then giving you that option to escape the door without ever having been put on the spot. The Baptists would have had at least two collection plates at every table. We would have had a table chairman and we would have asked all the people to stand who were giving. It really comes down to a theological difference. You are people of faith.

Raymond Wilson, it's a delight always to be in your company. You're a very contagious man. Your spirit, your dynamism, and your faith is most infectious. It's always a pleasure to be in the same harness with you on causes, whether for amendments to end the war, or whatever it might be. I feel like this is sort of a harnessing up time again tonight as we observe the 30th anniversary of the FCNL.

SELECTIVE SERVICE OR DISCRIMINATORY SERVICE

We do have many unfinished tasks and I would not attempt to enumerate them all. I'd

like to toss out a few to trigger your memory. I would like to ask you not to be misled that we have finished the task on compulsory military service. Because, dear friends, bear in mind that the so-called mechanism still exists, that odious law is still on the statute books called Selective Service—or as I prefer to call it, "discriminatory service." I do not believe that we can call the battle won until that law has been eradicated from the statute books and that machinery totally dismantled so that it cannot be used against us.

AMNESTY

There is a word which has been sort of a four-letter word in many circles, yet it has more letters than four, and it's one that I think will trigger the very conscience of all Quakers and Friends and those who are truly concerned about equity and fairness and justice. That's the word "amnesty." That task has not been really begun because we have yet to get any serious legislative proposal even introduced. I think this is the time to build the foundation, the climate, and the environment in which we can calmly—without emotion and yet very fairly and very accurately—focus on that serious unresolved problem.

SQUALOR OF REFUGEE CAMPS

Let us not forget also that there are many people who are living tonight in squalor and inhuman conditions in Mid-East refugee camps where the United Nations is trying to keep body and soul together for a miserly sum of ten cents per day per person. This kind of cesspool of human misery and deprivation is the breeding ground and the recruiting area for the terrorist organizations that have found their way into many parts of the world. I refer to the Palestinian refugee camps as but one kind of refugee camp amongst many in which human beings, creations of God, are forced into squalor. They are also a symbol of policy that this government has intended to follow toward the situation in the Middle East.

QUAKER RESOURCES

Tonight I'd like to share with you some of the concerns that are on my heart as I discuss some of our political, economic, and social problems. I look at you as people, not as citizens only, but people who have been committed to a cause. You have utilized your resources and have within your capacity tools and spirit which can help solve many of our problems. I saw the Indiana FCL statement that you have, I believe, at your plates. I thought that probably most pertinent of all of the concerns which I would enumerate tonight is the one which says: "Our primary purpose is the establishment of those conditions which will allow for the working of the Holy Spirit." It is obvious that we can't legislate that in Washington. To say the obvious in another way, we can't buy that condition in the marketplace. It is not a commodity for sale. But it comes out of the hearts and the minds and the lives of people who are committed to Christ. It is that instrument, it is that dimension, it is that perspective that I think will ultimately provide us with the opportunity to solve many of the problems facing our nation.

WATERGATE

Our nation and our people have been subjected to a series of shocking events that seem almost unparalleled in our history. I would like to enumerate some of the more infamous. Two former members of the President's Cabinet including the former Attorney General have been indicted. Several of the closest advisers of the President including a former Chief of Staff, domestic counselor, special counselor have resigned as a result of being under criminal investigation and some have been indicted. The Vice-President has resigned. The President has fired the Administration's Special Prosecutor who was appointed in accord with the presidential pledge "to see to it that all of those who are guilty are prosecuted and brought to justice." Former Attorney General, Mr. Richardson, described in his appointment by the President as "a man of unimpeachable integrity and rigorously high principle," with the presidential assurance that he would be "both fair and fearless in pursuing the truth wherever it leads," has resigned. Earlier we saw the evidence that the Committee to Re-Elect the President and the former acting director of the FBI shredded documents and destroyed potential criminal evidence.

LOW WATER MARK FOR POLITICIANS

Before any of these events occurred, in order to put them all into perspective, the public trust in politicians had already reached a low water mark. The University of Connecticut conducted a survey and found that amongst the twenty professions surveyed politicians ranked nineteenth out of twenty. Used car salesmen ranked twentieth.

As a Calvinist I would say it was predestined that I address the Oregon Association of Used Car Dealers right after the publication of this survey. You can imagine what my opener was on that one. It was very easy for me to identify with that audience.

We found in another survey that only 23% of the American parents would like to see their son or daughter enter a political career.

CENTRALIZATION OF POLITICAL AND ECONOMIC POWER

Far, far deeper is the question of the resilience of the republic, the viability of the government itself. We have seen abuses of power. We have seen breaches of promise and moral compromises at many levels of government. Our belief in the integrity of the government has been deeply shaken. I think history will regard the Watergate scandal as the symbolic culmination of an era of fundamental political estrangement between the people of our country and their government. But I would also quickly add that it is my opinion that Watergate is symptomatic of problems rather than the cause. It is a by-product of the centralization of political and economic power in this country. It is the product of executive autocracy under both Democratic and Republican presidents which has rendered the most basic and cherished checks and balances of our Constitution nearly inoperative. It is the result of believing that truth can be sacrificed at the altar of political expediency.

SOVEREIGNTY VESTED IN THE PEOPLE

And so our task, our corporate and individual task, is not only preserving the Republic but also insuring the credibility of a Constitutional system which will soon be celebrating a two hundredth anniversary. And in order to put a base to my comments tonight, I would like to suggest that the revolutionary understanding of the sovereignty that was established in this nation's birth was the idea that sovereignty was vested in the people. It was declared so in a very interesting way by those who wrote the Declaration of Independence. They did not credit the state as being the source of our freedom and liberty. Rather, these were bestowed by our Creator. The state was not deified. It was recognized that the Creator gave to us as human beings certain inalienable rights and liberties. In the Preamble it says, "We the people in order to establish a more perfect Union." We can see from this foundation that all political power has no end or justification in and of itself. It is accountable to the people.

I think it's well that we understand that basic origin, because the genius of the American experiment was that the power of the Executive was to be checked by the people through Congress and the people were to check the Congress. It was James Madison who made this observation when he said, "The truth is that all men having power ought to be mistrusted." Thomas Jefferson put it another way: "Let no more be heard of confidence in man, but bind him down from mischief by the chains of the Constitution."

MISUSE OF UNCONTROLLED POWER

I think a wise distrust of centralized, uncontrolled power dominated the thinking of those who drafted the Constitution. Yet we have seen where that concept, so clearly established, has become distorted. Today we hear assumptions that a President can be above the law, that a law can be broken in order to protect what is called "national security," and that "national security" may be defined to mean whatever those in power want it to mean. "National security" has come to suggest one individual's political security. So power can be used to protect one's position in the name of protecting the state. What is more wrong in concept than that?

GOVERNMENT THE SERVANT, NOT THE MASTER

The ultimate solution to many of these problems that we are attacking on a single front really lies in a total readjustment in our attitudes toward the power of government and the political structures. I am afraid, as I speak tonight, that there are many Americans who look upon government as an instrument of domination. Therefore it is our task to recreate it, transform it into an institution of servanthood. This requires decentralization of both political and economic power. We must remember that the state does not sustain the people, but the people sustain the state. The people cannot merely react to the government's action any more than Congress can be content in simply reacting to Executive dominance. The people of this nation once more must feel that they can take the initiative and that they can make their voice and their will affect the common destiny of our people.

There are some hopeful signs.

We have become involved in a movement called neighborhood government which is really a revival of the ancient tradition of the New England town meeting. I wish some of you could have been with me in Still Rocks, Pennsylvania. In a small neighborhood of that city we found a group of people who have been funded by the Roman Catholic diocese to set up an elected assembly. For the first time that neighborhood has a library. For the first time that neighborhood has a health center. For the first time that neighborhood has a senior citizens' center. For the first time it has a credit union and it is now developing a transportation program for the poor. All of this is under their own control and their own direction. We have another neighborhood in one of the ghettoes of Washington, D.C., that is also assuming this manner of leadership.

DECENTRALIZATION

We have to talk honestly about decentralization. We can't talk about the myth and the fraud of tax revenue-sharing which is perpetrated upon the people in the name of decentralization. All it does is take more of your money, shuffle it through our bureaucracy in Washington, and return it to the local governments. We call that decentralization. No. Decentralization occurs only when the people can retain their resources in the first instance and themselves determine the programs they are going to institute and promulgate in their own areas.

An adequate program of decentralization of political power is absolutely essential if we're going to solve the corruption and mismanagement and abuse of power that we have all seen too often recently. It is not enough, my friends, merely to pass a reform bill in the Congress that says that from now on we're going to be honest or from now on we're only going to spend so much money in political campaigns. These may be

directions, and they may help to accomplish the objective of forthright, honest politics. But they in themselves are not going to correct the situation. We must truly decentralize the tools of power. And in this world in which we live, the real tools of power are the vote and your money. Thus we're going to have to decentralize the economic corporations of this country as well, which have become so huge that they have almost destroyed the ability of a small entrepreneur even to engage, let alone survive, in the economic world.

THE SPIRITUAL DIMENSION

These are some of the real problems which we face that are only going to be solved when we introduce again the human factor. This is where the Friends and your commitment can become that very unique contribution that is so desperately needed for the full solution.

You see, all of this really comes back to a spiritual question. Modern America has almost lost its capacity for corporate repentance. It has so thoroughly evaded the awareness of corporate sin and personal sin. Today the average American in many instances finds it a very strange and weird word to hear the word "sin" mentioned. Dr. Karl Menninger has just written a book, a very interesting book. He is not a theologian, as you know, but a great psychiatrist of the Menninger Clinic. He entitled it, "Whatever Became of Sin?" Listen to this: "There is immorality. There is unethical behavior. There is wrongdoing and I hope to show that there is usefulness in retaining the concept and indeed the word 'sin.'" He's talking about restoring the nation to good health and the relationship of this thing we call sin. Now what is it really? It is accountability which I am referring to. It is personal accountability and corporate accountability, for our action, for our deeds, for our thoughts, for our attitudes.

A DAY OF NATIONAL HUMILIATION, FASTING AND PRAYER

It is very interesting that in the year 1863 on April 30, three months after the Emancipation Proclamation and three months before Gettysburg, at a time when no one knew which way the war was going to turn, Abraham Lincoln issued a proclamation. He started out this proclamation which he entitled, "A Day of National Humiliation, Fasting and Prayer," with these words: "Whereas it is the duty of nations as well as of men to owe their dependence upon the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope, that genuine repentance will lead to mercy and pardon, it behooves us then to humble ourselves before the offended Power to confess our national sin and to pray for clemency and forgiveness."

FOUR BASIC SINS

How atypical was Lincoln's act! Could this even be conceived of today? Are we too infatuated with our own national self-righteousness to talk about our corporate sins? And what are they? Oh, they are many, but let me indicate as examples a few. I could almost wrap it up in one package: war, violence, nationalism, and militarism. They all feed on one another. But what is the essence of our faith? Listen to the words of the prophet, quoted by Zachariah who was father of John the Baptist, when he said, "He came to guide our feet into the way of peace."

WAR AND VIOLENCE

And yet tonight as we gather here we are beset with the psychology of war, we are overladen with the means of war, we are addicted with the ways of war, and we are enslaved in a belief in war. And all of this arises out of our own attitudes corporately and it is nourished by our individual hatreds and our individual violence. Alexander Solzhenitsyn observed, "Violence is brazenly and victoriously striding across the whole world. There was a time when violence was a means of last resort. Now it is a method of communication."

We also are aware that our arsenals of power are poised and ready to destroy millions of people several times over. And this must be identified as a sign of corporate sin. I would suggest in addition that whenever we hear and accept the admonitions about being the most powerful nation on earth, being number one in all that we do, and achieving a peace with honor, then the attitude of national exaltation and righteousness becomes further ingrained as the justification for power and violence.

That is why I say it comes back to a spiritual question. If those who are spiritual are not willing to stand forth and express themselves and give their witness, then we are denying the nation the most important instrument to understand ourselves and to develop the true solutions. Repentance today must include a call to turn from hatreds, personal and corporate, which have divided us from one another so that we can be remade and reinfused by Christ's love for all mankind.

HERE WAS A MAN I WAS TO LOVE

You've heard the story many times, probably, told by great Pastor Niemoller who was imprisoned and said that he had come to so hate everything that the Nazi system stood for, even the guard who brought him his food as he bore the swastika as a symbol of the Nazi state, until one day God spoke to him in a very unique and peculiar way. Martin Niemoller calls it his second conversion. He said, "I looked up into the guard's eyes and God spoke into my mind, 'Christ died for him.' And for the first time I realize that here was a man I was to love, even my jailer."

DANGERS OF AFFLUENCE

The poorest one-fifth in our nation today, as far as our families are concerned, receive only five percent of the national family total income, whereas the wealthiest one-fifth enjoy 42% of the total family income. That fact has not changed in twenty-five years. The Scripture teaches us that there is one term to describe this reality: sin.

We are approaching a one-trillion dollar gross national product. And yet there are still hundreds of thousands and even millions of people who are hungry and improperly nourished, who live with rats in shacks, who cannot afford medical care, who are afflicted with all the disabilities of opportunity and knowledge that poverty brings. If I were to ask this audience tonight what was the greatest sin of Sodom you would probably say sexual immorality. But listen what Ezekiel says was the greatest sin of Sodom: "This was the inquity of your sister Sodom: she and her daughters had pride and wealth aplenty, food in plenty, comfort and ease, and yet she never helped the poor and the wretched."

Our modern call to repentence must cause us to repent from the sin of neglecting the poor, both as a nation and as individuals. How easy it is to talk about the sins of commission. The millions of people that Adolf Hitler was personally responsible for having slaughtered. The millions of people that were slaughtered under the attacks upon the peasants and others who represented the early years of the Bolshevik regime. And so we say all those men, the Communist leaders and the Fascist leaders, will stand under the judgment of God. But my friends, this winter we are told sixteen million people will die in Africa and in the East and other parts of the world because of starvation. That's because of the sins of omission. We are going to stand before the judgment of God for permitting this to occur out of a land of plenty and affluence.

IDOLATRY OF POWER

Lastly we have, so obvious in our land today, the idolatry of power. Where people gain great power, they begin to think of themselves as idols. I can tell you from personal experience there is no profession that massages the ego complex in a man as much as that of the political. Because after a while you fail to distinguish between yourself and the issue and anyone who honestly disagrees with you on the issue. You begin to interpret it as a personal attack and you have to respond. You have to destroy him before he destroys you. The issue and the person become blurred, because you're protecting your ego and your pride and your power. To keep one's power one comes to believe that he can justify himself to others and never admit wrong, and confession of error becomes equated with weakness. So one comes to believe that he is immune from normal human fallibilities. He places himself even above the law in this self-exaltation. So power is held by any means, defended at any cost, and clung to for one's personal identity.

PERSONAL ACCOUNTABILITY

We must re-establish the element of personal accountability on the part of those who hold authority. Out of the spiritual world comes to us the refinement of leadership. We see it in Christ himself. We must somehow see that his leadership was demonstrated by a commitment to service, a commitment to truth, rather than to self-maintenance. It is openness, humility, sacrifice, putting the well-being of others ahead of one's own position. That is what is meant when Christ tells us that the exalted would be put down and the humbled will be exalted.

LEADER AS SERVANT

We are required today to employ all of the tools and power and spirit of God Himself as instruments of His will to solve national and world problems, within the context of love, humility, and compassion. Then we can turn from idolatry of power to the example of the servant leader. Leadership then would be defined by sacrificial giving marked by humility. This new leadership toward this new world which we are all helping to build can then truly bring forth that very great hymn of praise uttered by Mary when she was told that she was to give birth to a child. As we approach this Advent season I can think of no greater goal for all of us in our own individual leadership responsibilities and in our corporate relationship to one another. It is referred to as Mary's Magnificat. These are but a few of the words of the praise, the hymn that she at that time gave:

"He has scattered the proud in the imagination of their hearts. He has put down the mighty from their thrones, and exalted those of low degree."

VICE PRESIDENT FORD

Mr. HUGH SCOTT. Mr. President, Roscoe Drummond's recent article about Vice President GERALD FORD emphasizes the special and unique role which he is playing and will continue to play in our national history. The challenge to our new Vice President is a great one. Mr. Drummond feels he is up to this challenge and will serve as a source of strength and wise counsel to the administration. I heartily concur and ask unanimous consent that this article from the Christian Science Monitor be printed in the RECORD.

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

[From the Christian Science Monitor, Dec. 12, 1973]

VICE PRESIDENT IN HIS OWN RIGHT

(By Roscoe Drummond)

WASHINGTON.—You are going to be hearing more about and from Gerald Ford than any previous vice-president.

He will be exercising unusual power and influence within the Nixon administration.

I doubt if any previous vice-president has entered upon his office with as much independence as Mr. Ford possesses.

A special combination of circumstances brings it about:

1. A big factor is that President Nixon cannot afford to alienate his Vice-President. It is not overstating it to say that Mr. Nixon needs Jerry Ford more than Jerry Ford needs the President. Mr. Ford can do more for the President than the President can do for Mr. Ford.

2. The new Vice-President will have unusual freedom to speak his mind in public and in private. He did so on significant occasions after he was nominated for the vice-presidency and he will have no reason to do otherwise now that he has been confirmed.

Examples of this independence on Watergate alone are these: He publicly advocated that Mr. Nixon be more forthcoming with full disclosure; he urged that the President forget about executive privilege as far as Watergate is concerned; he proposed publicly that Mr. Nixon appear before two or more members of the Ervin committee; he is advocating that the White House encourage the use of the impeachment process.

3. Since the American party system came into being shortly before the Civil War, no vice-president has been other than a one-man choice—the presidential nominee. In this instance Jerry Ford was recommended by the Democratic Speaker of the House of Representatives, nominated by a Republican President, and overwhelmingly confirmed by a Democratic Congress.

In a special sense Mr. Ford is Vice-President in his own right.

4. Jerry Ford will be an active Vice-President and not just in speech-making. There will be no "Berlin Wall" separating him from the Oval Office. He has been concretely assured of continuous communication on a daily basis with the President. He will be a special liaison between the White House and Congress and he will be an active participant in Cabinet and National Security Council meetings.

Richard Nixon and Jerry Ford came to the House of Representatives the same year—1948—and they have had a close and cordial relationship ever since. The Vice-President believes that the President did not know of Watergate in advance and did not participate in the cover-up. Mr. Ford will not be racing up and down the countryside defending the President, but he is not one of those Republicans who will be trying to hide from the President. If this is a political risk, he is willing to take it.

There could be circumstances under which Ford would be open to the presidential nomination in 1976, but it is evident that right now, at least, he is not setting his mind nor his ambition on anything other than being a worthy and valuable Vice-President.

I am convinced that Jerry Ford will be a source of strength and wise counsel to the administration. But only the President can extricate the President from his Watergate troubles. So far "Operation Candor" has not been good enough. Once the President could have believed that if there was not clear evidence that he himself had done wrong, the after-effects of Watergate would fade. But valid doubts remain in the minds of many who wish him well, and this means that Mr. Nixon will have to produce evidence which will enable him to recover credibility and confidence.

He has made a beginning, but more remains to be done if the presidency is not to be gravely weakened during a period of peril and opportunity.

STATEMENT ON EXPORT CONTROL LEGISLATION

Mr. STEVENSON. Mr. President, I had hoped that the Senate could complete export control legislation this week. Critical shortages of many essential commodities are appearing throughout the economy. Dwindling supplies of fuel, food, fertilizers, and petrochemicals are but a few of the examples.

Legislation is needed because export demand is a significant factor in today's shortages. And the shortages threaten recession coupled with inflation. Simultaneous economic expansion among the industrial nations has produced a scramble for raw materials as well as finished products. Price controls at home have diverted many U.S. goods to foreign markets. Industrial output is at an all-time high, but worldwide demand has simply outpaced productive capacity. All of this, of course, has been exacerbated by the oil embargo, which poses grave threats to economic prosperity and is causing serious rifts in U.S. foreign relations.

Some time ago, the administration sponsored S. 2053, a bill to expand the export control authority of the executive branch to deal with these problems.

It argued that existing law was too inflexible to permit an adequate response to developing short supply situations. It attributed its failure to act in time to control the massive outflows of agricultural products during the summer of 1973 to the rigidities of present law.

The Banking, Housing and Urban Affairs Committee acted expeditiously to deal with the matter. In June, July, and September of 1973, it held extensive hearings on S. 2053 and H.R. 8547, the House-passed version of S. 2053, as well as related matters.

It then reported out H.R. 8547 with an amendment in the nature of a substitute which had the effect of easing existing criteria for the exercise of export control authority. Subsequently, the committee indicated approval of a further change, which I advocated, to provide still greater flexibility in conformity with the House-passed bill.

All expectations last week were that the bill would come to the floor this week. We were told by the administration as far back as June that the need for action was urgent. Throughout the hearings, the administration testified at length that existing law did not give the executive branch the power to develop adequate information systems and other techniques for anticipating developing shortages and dealing with them effectively. Immediate legislative action was urged.

The inadequacies of present law were demonstrated during the summer of 1973. The administration stood by as shortages mounted. When further inaction could no longer be tolerated, the administration took the draconian step of a complete embargo on certain limited commodities. The consequent ill-will which such action generated abroad and the disruption which it caused to established trading relationships and carefully nurtured markets demonstrated the complete inadequacy of such methods.

That is why I urged action this week to remedy the defects of existing law. I believe that the administration wanted and needed such action without delay. H.R. 8547 as passed by the House would overcome most of the administration's objections to present law. It would permit the imposition of export controls if foreign demand causes either an excessive drain of scarce materials or serious domestic inflation because of abnormal foreign demand. Under present law, both must be present. Under the House-passed version with the further deletion of the word "abnormal" as it modifies "foreign demand," the executive branch would have had all the authority and flexibility it needs to develop an effective export policy to protect vital U.S. interests.

Yet suddenly, the administration turned the tables on the Congress. After months of urging immediate action, it took steps just last Friday, December 14, to block consideration of the legislation this session. When I learned of that action, I immediately wrote to Secretary Dent of the Department of Commerce for a clarification of the administration's position, pointing out that the success or failure of the legislation would depend in large part on the administration's attitude. Mr. President, I ask unanimous consent to print that letter in the RECORD.

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

DECEMBER 14, 1973.

Mr. FREDERICK B. DENT,
Secretary of Commerce,
Department of Commerce,
Washington, D.C.

DEAR SECRETARY DENT: I am writing to inquire about the Administration's position on pending export control legislation. As you know, Senate floor action on such legislation is scheduled for early next week.

Every since last June, the Administration has argued that it needed expanded export control authority to deal with developing short-supply situations effectively. S. 2053, which would have greatly expanded such authority, was, in fact, sponsored by the Administration.

I understand, however, at a meeting with the Banking Committee staff today, the Department of Commerce indicated it may be reconsidering its support for broadened export control authority.

As you know, I support the broadened and more flexible export control authority proposed by H.R. 8547 as passed by the House. While it does not go as far as S. 2053, it goes considerably further than the bill reported by the Senate Banking Committee.

The Administration's position on export control legislation will have a significant impact on its chances for success when H.R. 8547 reaches the floor next week. If, in fact, the Administration is withdrawing its long standing support for broadened export control authority, I would greatly appreciate your letting me know as soon as possible and, in any event, before the Senate considers H.R. 8547.

Sincerely,

ADLAI E. STEVENSON.

Mr. STEVENSON. Mr. President, the Secretary telephoned to confirm that the

administration was no longer supporting export control legislation and subsequently sent a letter responding to mine. I ask unanimous consent for inclusion of that letter in the RECORD.

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

THE SECRETARY OF COMMERCE,
Washington, D.C., December 19, 1973.

Hon. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: This is in response to your letter of December 14, in which you requested to be advised of the Administration's position on a proposed amendment to the Export Administration Act of 1969, which passed the House on September 6 and was reported, with amendment, as H.R. 8547 by the Senate Committee on Banking, Housing and Urban Affairs.

As noted in your letter, since June of this year the Administration has urged the Congress to amend the Export Administration Act to provide greater flexibility in dealing with situations where the domestic supply of particular commodities is inadequate to meet both domestic requirements and foreign demand.

The amendment as reported by the Senate Banking Committee would not provide the degree of flexibility which was contemplated under H.R. 8547, as passed by the House, or under S. 2053. In fact, the only change to existing law contemplated under the bill reported by the Committee would be to strike the word "abnormal", currently qualifying the term "foreign demand" in section 3(2)(A) of the Export Administration Act.

I understand that at a meeting on December 14th, Administration representatives were advised by Committee staff members that this bill is expected to be further amended on the floor of the Senate with provisions that would mandate export controls for specific commodities or otherwise unduly limit the discretion of the Executive in imposing and administering short supply controls under existing law. Faced with this prospect, and in light of the minimal increase in administrative flexibility contemplated under the bill as amended by the Senate Banking Committee, the Administration has concluded that it would be unwise to risk further impairment of existing authority under the Act by supporting Senate action on H.R. 8547 as reported.

In closing, I wish to express my appreciation for you efforts in seeking to provide the President with greater flexibility under the Export Administration Act of 1969. As you know, this Act is scheduled to expire on June 30, 1974, and it may be that the Congressional hearings which will precede the extension of the legislation will present a more propitious opportunity to reopen this matter.

Sincerely,

FREDERICK B. DENT,
Secretary of Commerce.

Mr. STEVENSON. Mr. President, concern was expressed over the possibility of floor amendments which the White House opposes. But rather than fight to keep them out of the bill, the administration chose to abandon the effort.

At this juncture, a cloud has been cast over the future of export control policy. The need for greater flexibility and clear legal authority has at no time been as imperative as it is today. Not since World War II has the prospect of shortages, coupled with inordinate demand abroad, been as severe as it is today. In the case of agricultural commodities, for example, wide fluctuations in production and demand have produced chaotic conditions in international markets. The Soviet grain purchases this past year demonstrated the vulnerability of the U.S. economy to substantial and secret purchases, particularly when negotiated by state trading monopolies. Reports of large Chinese wheat purchases are just beginning to filter through.

In other sectors as well, shortages are appearing throughout the economy. Manufacturers are unable to obtain essential raw materials at reasonable prices—sometimes at any price. In many cases, oil, gas, steel, cotton, fertilizer, reinforcing steel bars, paper, and ferrous and zinc scrap are simply unavailable. Wheat carryover stocks are at their lowest levels since 1948. Where available, the prices for raw materials put intolerable strains on producers and mean even greater costs for consumers.

The evidence is startling. The wholesale price index for November was almost 17.5 percent above its level just a year ago. Basic materials prices in October were more than 23 percent above last year's levels. In June, ferrous scrap prices were more than 34 percent above 1972 levels. Compared to last October, wholesale cotton prices were up more than 25 percent, grain prices were up almost 110 percent, and refined petroleum products increased by more than 40 percent. Fertilizer prices recently jumped 40 to 60 percent.

Price increases for producers inevitably mean price increases for consumers. By October of this year, the consumer price index was almost 8 percent above its level last October and was rising at a rate of 9.6 percent a year. Food prices alone were up more than 18 percent over last year. The worst is probably still ahead. Today's consumer prices reflect wholesale price increases which have already occurred. Wholesale price increases which are now occurring will inevitably boost future consumer prices.

In light of these increasing strains on the economy, the administration's abandonment of export control legislation this session is intolerable. The failure to act today will not make it any easier tomorrow. In fact, it will make it harder. Scarce commodities will continue to flow out of the country; contracts for further exports will be executed. Adequate information and licensing systems will be held in abeyance. In short, the United States will continue on the perilous course it has been on for the last 6 months: Ignorant of what is happening and powerless to do anything about it.

Export control legislation must take the highest priority early next session. H.R. 8547 is now scheduled for consideration on January 21, 1974. I urge its consideration without further delay at that time. In the meantime, the public should know that responsibility for the consequences caused by delay lies clearly on the steps of the White House.

A CANADIAN'S OPINION OF AMERICANS

Mr. MATHIAS. Mr. President, I am indebted to my friend of longstanding, Mr. E. Eugene Thomas, Jr., of Frederick, Md., for a copy of an editorial recently broadcast by Gordon Sinclair, a Canadian radio and TV commentator from Toronto.

It is factual, forceful, and food for thought, to know it will be welcomed in the Senate and ask unanimous consent that it be printed in the RECORD.

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

"LET'S HEAR IT!" FOR THE UNITED STATES

This Canadian thinks it is time to speak up for the Americans as the most generous and possibly the least appreciated people on all the earth. . . .

Germany, Japan and, to a lesser extent, Britain and Italy were lifted out of the debris of war by the Americans who poured in billions of dollars and forgave other billions in debts. None of these countries is today paying even the interest on its remaining debts to the United States.

When the franc was in danger of collapsing in 1956, it was the Americans who propped it up, and their reward was to be insulted and swindled on the streets of Paris.

I was there. I saw it.

When distant cities are hit by earthquakes, it is the United States that hurries in to help. . . . This spring, 59 American communities (were) flattened by tornadoes. Nobody helped.

The Marshall Plan and the Truman Policy pumped billions upon billions of dollars into discouraged countries. Now newspapers in those countries are writing about the decadent, warmongering Americans.

I'd like to see just one of those countries that is gloating over the erosion of the United States dollar build its own airplanes.

Come on, let's hear it!

Does any other country in the world have a plane to equal the Boeing Jumbo Jet, the Lockheed Tristar or the Douglas 10?

If so, why don't they fly them? Why do all the international lines except Russia fly American planes?

Why does no other land on earth even consider putting a man or woman on the moon?

You talk about Japanese technocracy, and you get radios. You talk about German technocracy, and you get automobiles.

You talk about American technocracy, and you find men on the moon—not once but several times—and safely home again.

You talk about scandals, and the Americans put theirs right in the store window for everybody to look at.

Even their draft-dodgers are not pursued and hounded. They are here on our streets, and most of them—unless they are breaking Canadian laws—are getting American dollars from Ma and Pa at home to spend here . . .

When the railways of France, Germany and India were breaking down through age, it was the Americans who rebuilt them. When the Pennsylvania Railroad and the New York Central went broke, nobody loaned them an old caboose. Both are still broke.

I can name you 5,000 times when Americans raced to the help of other people in trouble. Can you name me even one time when someone else raced to the Americans in trouble?

I don't think there was outside help even during the San Francisco earthquake.

Our neighbors have faced it alone, and I'm one Canadian who is damned tired of hearing them kicked around.

They will come out of this thing with their flag high. And when they do, they are entitled to thumb their nose at the lands that are gloating over their present troubles.

I hope Canada is not one of these.

STRIPED BASS

Mr. RIBICOFF. Mr. President, fishing off our coast is a pleasure that millions of Americans take for granted. But the last decade has revealed that sport fishing in most of our Nation's waters is being threatened by environmental pollution.

A perfect case in point is the potential kill of striped bass and other fish that spawn in the Hudson River if the Storm King pumped storage hydroelectric powerplant, proposed by Consolidated Edison, is built as now planned.

Earlier this fall I asked the Atomic Energy Commission to assess the potential fish kill at the Storm King plant.

I ask unanimous consent that this report and speech be printed in the RECORD.

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

SPEECH BY SENATOR ABE RIBICOFF

The Atlantic Coast is fished by thousands and thousands of Americans. Some are just after a few flounders to put on the dinner table. Others—like many of you—set out to boat a striped bass of 30 or 40 pounds. (I'm sure I've seen some of you from my porch, heading for the Race off New London). But in the end fishing is an adventure—one of the precious natural enjoyments open to every kid with the price of a hand line, hook and sinker.

Our job today—and for the years to come—is to preserve this sport and the water it is played on for our children and their children. We must never let it be said that our generation turned our heads to warnings of scientists and naturalists who point out the threats to our coastal waters and the fish that swim them.

Too many of us who stand on the beach are deceived by the vastness of the Atlantic Ocean or Long Island Sound or the Chesapeake Bay. "What could possibly hurt the fish with all that water to move in?", we ask.

Four months ago Bob Boyle and Pat Carrol gave me just one of the many answers—Storm King. They described how one firm acting in the name of energy threatens to decimate the stock of striped bass from Maine to the Carolinas. Another, of course, is the Surrey Plant in the James River in Virginia.

I learned that a major part of Consolidated Edison's success in obtaining licenses from the Federal Power Commission lay in a limited study on potential fish kill on the Hudson River. Con Edison's consultants testified that the giant Storm King pumps would suck in and kill only two or three per cent of the striped bass eggs, larvae and fingerlings. Hardly worth the attention of men concerned with millions of kilowatts.

But there was reason to doubt these statistics. A number of concerned scientists and fishermen, including Bob and Pat, were convinced that data was available to reckon that the fish kill was not two or three per cent—but twenty to thirty per cent. "But 20 or 30 per cent of what?", I asked. They told me that the Hudson River produced most of the striped bass that ran the Southern New England coast.

I returned to Washington and wrote Dr. Dixie Lee Ray, the chairman—or chairperson—of the Atomic Energy Commission asking her if the AEC could provide any data on Storm King.

Yesterday, I received a preliminary report from a group of scientists who have been running tests on a mathematical model of the Hudson River at the AEC laboratory in Oak Ridge, Tennessee. The report can't be considered definitive, but the conclusions are important.

It states that no annual analysis can be drawn with the computation techniques used in the original study. Therefore, Con Edison's figure of 3 per cent is unfounded.

Though the data was good, the method of computation was not, and Dr. Ray said that the AEC scientists have already begun a profound six-month study to better define the impact of Storm King.

These early estimates, however, suggest that cumulative losses could run as high as 2.8 per cent of the eggs and larvae per day. And, depending on the distribution of eggs and larvae and the period of exposure during that spawning season, losses could range from 25 to 75 per cent.

These seem staggering to me, and I will wait anxiously for the final AEC report. But it appears obvious that the utility and the Federal Power Commission clearly underestimated the potential damage at Storm King.

I understand that these figures can't be projected into adult fish kill. But I think they can be translated into a deceptive legal argument by Con Edison's hired experts—and perhaps the grounds for reopening hearings on the Storm King project.

But trying to cut short any source of power these days is less popular than it was six months ago.

I don't have to tell any of you who run from marina to marina trying to gas up your boats, that America has been plunged into an energy crisis. The time has come for environmentalists to step down off their soapboxes. The time has come for the energy brokers—the industrialists and oil executives—to come out of their counting houses. To stop ramming through dirty energy in the name of crisis.

No one can convince me that there isn't room for the industrialists in the campaign to protect our skies and waters and forests. And no one can convince me that the conservationist has become a bothersome crank as the nation desperately looks for more power.

Just this week Senator Jackson and I put in a bill to create President Nixon's new super agency—the Federal Energy Administration. As you know, there was great pressure in this country to aim the federal machinery at every source of power, regardless of the environmental and safety hazards. We resisted this arm-twisting and guaranteed that the conservationist and safety experts will have a say on every energy decision.

The same guarantee is contained in my bill to establish the new Energy Research and Development Administration. The new agency has a broad charter to develop research and development relating to all foreseeable energy sources, like the liquefaction and gasification of coal and the development of a safe, efficient breeder reactor.

There is no necessary conflict between our need for energy and our need for a healthy environment. One of the most important considerations in developing a national framework is combining the intelligence of conservation and technology. Both bills bring in the environmentalist on the take-off—not just on the crash landing.

Had utilities and industry been more farsighted we wouldn't be talking about magnitudes of fish kill here today. Con Edison and the Striped Bass Fund and the Atomic Energy Commission and the energy economists might have sat down at the same table back in 1964 and found a better way. They didn't. But don't think for a moment that such a meeting of minds and interests is impossible.

I have been working for years to clean up the Connecticut River and the Long Island Sound. And I still dream of the day when fisherman are casting for salmon in Haddam and oil slicks and bridge projects are chapters for historians.

The work has been slow and often frustrating. But today we have a cleaner river and a cleaner Sound. We're a long way from finished, but one thing the struggle has proved is worth noting today. And that is that the federal government—when pushed hard and with good reason—can help save the water we treasure. Some times the utilities and their consumers push harder—Storm King is a perfect case. But often the problem is that people don't use the federal machinery at their disposal.

I'm sure that there are scientists in each of your states who are studying the striped bass. They are trying to find out how many bass there are, where they go, where they are caught.

They are trying to find out who catches the bass and who—like Con Edison—simply threatens to kill them.

The catch is—that striped bass don't know state boundaries. The man fishing off Montauk may be waiting for a trophy fish spawned in the James River. And vice versa, the Delaware fisherman may hook a bass spawned in the Hudson.

If we don't have a good idea where the fish spawn and where they spend their adult lives and how many are taken—by both sport and commercial fishermen—then you and the striped bass are in trouble.

In Washington the Bureau of Marine Fisheries Services has been concentrating on commercial harvests of striped bass and other coastal fish. But I understand that not nearly as much emphasis has been put on assessing the sport harvest.

Tagging and scale sampling programs are in service all up the coast in an effort to survey the bass population. One of the speakers here today, Dr. Benjamin Florence, is particularly active in the Chesapeake area. I know that Pat Carrol is pressing Fund members to tag fish and send scale samples from this area. But the important question is, how much information flows between Maine and North Carolina? Are New York, Connecticut and Rhode Island developing common programs to measure and protect the bass in Long Island Sound?

How do you explain that Connecticut has one set of catch size laws and Maryland has another? In New York a fisherman has to throw back a bass of less than 16 inches. But a couple of miles down the coast in New Jersey, fishermen must throw back fish of less than 18 inches.

The point is, to save the bass we need interstate cooperation. And the natural place to look for that coordination is in a federal bureau already working with state governments and scientific ventures.

You know, every time you buy a surf rod or a Bunker spoon, you pay a 10 per cent excise tax to the federal government. And this money—millions of dollars—is returned to the states for research and development and protection of game, according to pre-determined ratios.

In essence, the federal government already determines to a great extent the money your state spends to better your catch. Without the excise tax returns, many scientific and public service projects would die.

But I see no reason why you striped bass fishermen can't push for broader federal allocation to common projects that insure conformity—not necessarily uniformity—to natural requirements all along the East Coast.

Some people have suggested uniform catch and size limits. Others believe that licensing salt water fishermen would ultimately bring a better catch. But decisions of this scope must be based on the results of massive research efforts. Not just in Maryland or New Jersey—but over every mile of our coast.

Take the example of a small group of avid Atlantic salmon fishermen. They spearheaded an international pact that limits the commercial catch of this gamefish. But first scientists had to combine efforts to find the source of the problem and propose a common solution.

If striped bass are threatened—whether by Storm King or the Surrey plant or commercial netters or sport fishermen—then we all are responsible for getting together and doing something about it.

Getting together in America today is becoming harder and harder. The taxpayers are against the tax collectors. The environmentalists are against the industrialists. The bass fishermen are against the Bunker fishermen. But, as we all know, getting together is what gives this nation its protection and its progress.

The sooner we all pull together, the sooner we can satisfy our obligation to future generations of striped bass fishermen.

STORM KING PROJECT ANALYSIS REQUESTED OF SENATOR A. RIBICOFF

OAK RIDGE NATIONAL LABORATORY,
Oak Ridge, Tenn., December 3, 1973.

Attention: Mr. J. A. Lenhard.

GENTLEMEN: Per the request of Senator A. Ribicoff as transmitted by Dr. J. L. Liverman in his TWIX of 16 November 1973, the Environmental Sciences Division, Oak Ridge National Laboratory has completed a preliminary judgment of the impact of the Storm King Project on the striped bass population on the Hudson River. The analysis is as follows.

As indicated earlier, we cannot provide independent estimates of the potential impact of the Storm King Project until completing our evaluation. However, in response to your November 7 request, we are providing herein the best preliminary judgment our experts can give concerning the validity of various opinions that have been expressed in relation to the impact of the Storm King Project on the Hudson River striped bass population. Because of time constraints most effort has been exerted in analysis of the bases of the conclusions that support Consolidated Edison's position as expressed in the document entitled "Hudson River Fisheries Investigations, 1965–1968" (hereafter termed HRFI).

In brief, it was determined that the numerical values relied upon by Consolidated Edison as estimates of the annual losses of striped bass at Storm King were, in fact, estimates of the proportion of eggs and larvae which would be withdrawn daily during the two to three month period that these vulnerable developmental stages would be present. No analysis of the annual impact of Storm King was developed in the HRFI report. Thus, any assertion by Consolidated Edison that this study shows that the Storm King plant would remove only an insignificant 3% of the yearly striped bass hatch, as stated in your September 10 letter, should be considered unfounded.

The HRFI report resulted from a relatively intensive study of the distribution of larval and juvenile stages of fishes in the Hudson River and was supported by Consolidated Edison. An impressive amount of information was obtained during this study, particularly in relation to the life history of striped bass. In applying their findings, however, the authors of the HRFI report erred in their method of computing the percentage of eggs and larvae withdrawn at Storm King by omitting consideration of the bi-directional nature of the tidal flow, which leads to an underestimate of the daily proportion of larvae and eggs entrained. This error in formulation has served as the basis for much of the criticism of the conclusions expressed in the HRFI report.

A second and compensating error resulted, however, when volume of the Cornwall sector was equated with the volume assumed to have flowed past Storm King each day. The numerical effect of this error would be exactly compensated for by assuming an 8-hour daily mean pumping rate of 19,900 cfs, a value well below the maximum (21,600 cfs) of the proposed facility. Because of these factors, the estimates derived in the HRFI report are not obviously in error, when applied on a daily basis.

The real problem results from the integrated exposure of larvae and eggs over the entire period during which they are present. The importance of this fact is related to the magnitude of cumulative losses which would occur because the larval bass remain vulnerable to withdrawal over an extended period of time. The importance of this factor is illustrated in the enclosed figure which shows how the predicted daily withdrawal of 2.8% would accumulate during successive days of vulnerability. The period over which the 2.8% daily removal estimate should be applied is uncertain because it presumes that plant operation would not alter the larval distribution in a manner that would change the daily rate of removal. If the duration of this period is as short as 10 days, nearly 25% of the larval population would be withdrawn. If, on the other hand, the daily removal estimate is applicable over the entire seven week period that the young bass remain pelagic, then approximately 75% of the annual hatch might be destroyed.

Such losses would cause proportionately similar reduction in recruitment to striped bass stocks supported by Hudson reproduction. The numbers of bass available to fishermen along the Atlantic Coast from New Jersey northward would thereby be reduced although the effects would be most strongly felt in the New York Bight and Long Island Sound which depend almost entirely on the Hudson.

Very truly yours,

F. L. CULLER,
Acting Director.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., December 5, 1973.

Hon. ABRAHAM RIBICOFF,
U.S. Senate.

DEAR SENATOR RIBICOFF: This is in response to your recent letter requesting that AEC scientists at Oak Ridge perform a preliminary estimate of the potential damage to the striped bass in the Hudson that might result from operation of the Storm King Plant.

My response to your original request indicated that to do a critical analysis of this problem would take a minimum of six months and that unless more data were to become available even that period might not yield a reasonable, supportable conclusion. From a review of the enclosed Oak Ridge report, I continue to believe that my original speculation about the time needed and the probable absence of completely adequate data upon which to base an analysis was correct. Because of time constraints, the Oak Ridge group was able only to review the data found in "Hudson River Fisheries Investigations 1965–1968," a report which was submitted by Consolidated Edison in support of their application for the construction permit. The Oak Ridge group is quite frank in stating "we cannot provide independent estimates of the potential impact of the Storm King Project until completing our evaluation . . . however, . . . we are providing . . . the best preliminary judgment our experts can give" based on the document mentioned above.

I am sure you recognize that the Oak Ridge preliminary estimate would be subject to revision as a result of further study. It is essential that there be more recent data than that gathered in 1968 before a reliable conclusion can be reached. There are a number of important factors which must be considered in reaching such a conclusion including the percentage of total population of striped bass which spawn upstream from Storm King; the residence time of the eggs and larva near the intakes; the degree of tidal movement; and the direction and volume of net water flow past the plant.

It is, therefore, with some reluctance that I forward to you the report of the Oak Ridge group. I urge you to use caution in drawing conclusions based on this preliminary analysis and strongly suggest that the apparent impact drawn from this preliminary data may be different from the real one. I hope that this effort on the part of our laboratories has been of value to you.

It seems to me that this whole matter points up sharply the need for very aggressive environmental studies on a regional basis. The $10 billion energy R&D study which I have just submitted to the President proposes major expansions of environment studies pointed in this direction.

Sincerely,

DIXY LEE RAY,
Chairman.

THE ENERGY CRISIS

Mr. HANSEN. Mr. President, one of the first Members of Congress to recognize the on-rushing energy crisis was the junior Senator from Idaho (Mr. MCCLURE). I read recently a compilation of statements that Senator MCCLURE has made on this subject over the years, from the time he was first appointed chairman of the House Republican Task Force on Energy in 1971 up through statements he has issued this month. I think that our colleagues would find this of interest and therefore request unanimous consent that it be printed in the RECORD.

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

MCCLURE ON ENERGY

Dec. 4, 1973 (at a press conference in Washington)—"Following two weeks' talks in the Middle East, I am convinced that our present policies there have put the U.S. on a collision course with disaster. Without an immediate change, we will find ourselves isolated—standing virtually alone against our former allies in Europe and Japan, and for no good reason . . . Israel should recognize that an America weakened by fuel shortages, economically crippled by industrial shut-downs, rising welfare roles, and reductions in tax receipts, would not be an America which could support Israel's just rights, including the right to existence."

Dec. 6, 1973 (on NBC's Today Show)—"I think if we can get a resolution of the conflict, then we will have made sure—as sure as it is possible to make—the supply of Arab oil. But I don't think Arab oil should be the foundation of our energy policy."

Dec. 13, 1973 (before the Senate Foreign Relations Committee)—"Israel should now recognize that they have won the legitimate goal, that the Arab Nations are now willing to recognize Israel's presence and real guarantees or security can be forged. Israel has bravely confronted the risks of war. She must now just as resolutely accept the risks of peace, if for no other reason than the fact that these risks are now less grave than the risk of prolonged military confrontations."

Dec. 17, 1973 (in a speech on the Senate Floor)—"The future security of Israel depends on her willingness to secure peace with her neighbors. The political situation within Israel, however, makes it extremely difficult for any Israeli leader to even discuss withdrawal from Arab lands occupied during the 1967 war. A refusal by the Senate to approve this $2.2 billion (military aid bill) would give Israeli leaders an incentive, allowing them to begin serious negotiations, leading to return of captured Arab lands and recognition of Israel as a sovereign nation."

Dec. 18, 1973 (following a meeting with President Nixon at the White House)—"I

had a very good meeting with the President . . . I think it's absolutely imperative that we recognize that if the oil embargo were lifted, we could get by without gas rationing in this country . . . I think the whole question now depends on the willingness of Israel to compromise and to release some of the occupied territories that they seized in the 1967 war. The question is, of course, much deeper than that, but I do believe the entire issue of rationing is up to the Israelis at this time."

On March 17, 1971, then-Congressman McClure was appointed Chairman of the House Task Force on Energy and Resources. At a press conference that day he said, "The function of the Task Force on Energy and Resources will be to take a long-range look at the increasingly serious energy problem in the United States in hopes of developing a realistic program before a crisis situation forces precipitous legislative action."

June 13, 1971 (following a Task Force meeting with Hollis Dole, Assistant Secretary of the Interior)—"The problems of the 1970s have resulted from a lack of planning during the 1960s. This need for a national energy program, reflecting the diverse problems of all regions of our country, is one of the major reasons that we will continue these hearings."

June 22, 1971 (following a Task Force meeting with the staff of the Federal Power Commission)—"Once again we see the need for a national energy program. Environmental policies to ensure clean air, and regulatory policies to ensure fair prices and adequate supplies must be designed within the framework of an overall national program, a program built around the national goal of clean energy for the 1970s."

June 30, 1971 (following a meeting with environmentalist James H. Wright)—"Government programs dealing with energy, resource development, and environmental protection require detailed coordination. That is where the government has failed in the past—to see these problems as interrelated. The Administration is beginning to coordinate its efforts and hopefully Congress will do the same."

October 8, 1971 (following a Task Force meeting with officials of the natural gas industry)—"What is needed here is a Federal energy and fuels program, enabling the government to point out the consequences of short-term, spur-of-the-moment solutions to long-range, wide-impacting problems. How can the FPC decide that it is proper to curtail gas supply to a particular user, when it doesn't have authority to provide an alternate source of energy? If the user—for instance, a large industrial plant—switches from natural gas to No. 2 fuel oil, and creates a shortage of home heating oil, what has been accomplished?

January, 1972 (in a newsletter distributed throughout Idaho's First District)—"Some of the more critical energy issues facing the Congress have evolved just during the past few months. Questions such as rationing and end-use controls of fuels and energy by the Federal Government, allocation of natural gas supplies between states and even between cities—these have not arisen before in this country except during wartime and national emergencies. But, they are now questions that will be before the Congress and the American voter for at least the rest of the decade."

February 8, 1972 (in a speech on the Floor of the House of Representatives)—"American consumers may be reaching the end of cheap and plentiful energy in this country. The ultimate impact on the consumer will be severe, unless we can begin now to implement a national energy program for maintaining adequate supplies of energy at reasonable cost."

March 12, 1972 (following a meeting with officials of the Office of Emergency Planning)—"From an environmental viewpoint, this projected energy shortage has serious implications, along with the obvious impact on our foreign policy. General Lincoln and Mr. Bennett have added 'national security' to our list of concerns regarding energy and resource problems."

April 3, 1972 (in a speech before the Boise Kiwanis Club)—"Here in Idaho—because we are accustomed to cheap and plentiful energy—we are probably less prepared to face the grim reality of national energy shortages. But out there in the urban centers of this nation, they are indeed on the brink of a national energy crisis that will eventually affect us all."

April 26, 1972 (in testimony before the House Interior Committee)—"Testimony makes it evident that we need answers now—not 20 or 30 years from now. This country faces one of the most potentially critical situations we have yet seen . . . Rationing and end-use controls of fuels and energy are already a reality in this country . . . How do you justify blacking out people who have participated financially in the construction of new electric facilities in order to send the power to cities which have, in fact, prevented construction and operation of new plants and lines?"

May 19, 1972 (in a speech before the Northwest Public Power Association)—"The energy situation is a crisis, it is real, and it is now . . . I believe that we cannot afford to wait until January of 1973 to begin."

July 8, 1972, (in a speech in Payette)—"If we have learned one thing in our study of national energy resources, it is that a healthy economy depends upon adequate fuel supplies . . . Also, the scramble for existing energy supplies will begin to play a more intense role in international relations and could well threaten this country's national security if improperly managed."

August 14, 1972 (in a speech delivered to the Platform Committee of the Republican National Convention)—"Today, we face an energy situation that can best be described as extremely serious . . . Unfortunately, the term 'crisis' is much over-used in our modern society, but I believe that the facts substantiate its application in these instances."

(In October 1972, the Ralph Nader Congress Project released its political profile of Senator McClure, which criticized "McClure's pre-occupation with the pending energy crisis and his desire to see steps taken which will alleviate the crisis before it becomes serious.")

February 26, 1973 (in a statement before the Senate Interior Committee)—"Economically, the U.S. is facing the prospect of importing anywhere from $20 billion to $30 billion worth of oil, annually, within a short time of 10 to 15 years. From a foreign policy viewpoint, we have to understand that the bulk of this oil will come from, and the dollars will flow to, the Arab States to the Middle East, particularly those states bordering on the Arabian Gulf. At present, U.S. military and international policies do not appear to be considering the implications of these two facts . . . I urge consideration of immediate talks with those Arab States of the gulf region, concerning their future and ours . . . (we) have produced a foreign relations situation in which we are most dependent on the same nations on which our allies in the world are dependent . . . Our dealings with Arab Nations in the past seem to have been predicated on the simple slogan, 'They can't drink their oil.' Well that myth should not be around much longer."

April 26, 1973 (at an energy symposium in Boise)—"For this immediate period facing us, there are some simple, voluntary efforts which would definitely help. They include turning up your air conditioning in the summer, turning down your heating system in the winter, turning off unused lighting, buying appliances based more on efficiency of energy use rather than initial price, and buying small automobiles (and driving them easier) . . . Also, reduce airline flights, open up urban express lanes for commuter traffic using carpools, impose a nationwide maximum speed limit of 50 miles per hour, and relax air quality standards for sulphur. The energy crisis is forcing us to make unpleasant decisions—decisions concerning the ideal goals of a pure environment and low consumer prices which we have set for our society. But if we do not make these decisions, or as we have seen recently by Administration actions, we attempt half-hearted, 'politically-acceptable' solutions, then we will experience the final 'solution' to the energy crisis—rationing of fuels and energy by the federal government.

July 23, 1973 (in a speech on the Senate Floor)—"The American people are being duped. If we are to avoid crippling economic, environmental, and social disruptions in this society, it is essential that the hard, cold facts concerning our energy crisis be told."

(On October 6, 1973 the Middle East War began. On October 18, the Arabs began limiting oil shipments to the U.S. Between November 18 and December 2, Senator McClure toured five Arab nations.)

SHORTAGE OF PLASTICS RAW MATERIALS—THE IMPACT IN RHODE ISLAND

Mr. PELL. Mr. President, for several months now, I have been receiving correspondence from a number of Rhode Island firms unable to obtain sufficient quantities of various plastic raw materials from petrochemical suppliers. Most of the firms indicate they will have to cutback operations or close for periods of time until their stocks are replenished. As of today, these shortages are affecting several dozen firms in the State, employing more than 4,000 individuals.

I ask unanimous consent to have printed in the RECORD at the conclusion of my statement comments from some of the firms affected by this raw materials shortage.

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

(See exhibit 1.)

Mr. PELL. These firms recognize the inability of their suppliers to meet the demand for plastic raw materials due to shortages of petrochemical feedstocks. However, they raise questions over the export of available plastics as well as the continuation of domestic price controls for these products which they argue only leads to increased export of the already scarce materials.

I have examined statistics from the Commerce Department covering the export of plastics materials for 1972 and 1973, and there is a significant increase in the trade of these critical items. The dollar value for all plastics exports amounted to $506 million in 1972 and that figure jumped to $710 million in 1973. These figures include the export of a number of the critical plastics raw materials Rhode Island firms desperately need.

Mr. President, I have written to Secretary Dent regarding the concern of these Rhode Island firms urging a careful examination of this situation and that appropriate action be taken under the Export Administration Act to insure an adequate supply of these critically needed

raw materials for domestic use. I want to call this serious situation to my colleagues' attention, many of whom may be faced with a similar problem, and again urge Secretary Dent to give most serious attention to this matter.

There are over 30,000 employees in the plastics field in Rhode Island, and unemployment among these workers in a State already severely affected economically by several military base closings, would be an even more serious setback to the economy of my State.

EXHIBIT 1

ATLANTIC TUBING & RUBBER CO.,
Cranston, R.I., September 24, 1973.

Senator CLAIBORNE PELL,
Providence, R.I.

DEAR SENATOR PELL: We are now unable to buy plant materials such as Vinyl Chloride Monomer, plasticizers and stabilizers from our petrochemical company suppliers. They, in turn, are unable to produce sufficient quantities of these needed materials due to shortages of their hydrocarbon feedstocks. The administration under Governor Love is proposing an allocation program affecting petrochemical feedstock. The petrochemical industry must be given priority. Our company employs 400 people whose jobs depend on our continued operations. We need your help with the Administration in its policy making to assure the petrochemical industry has feedstocks.

Trusting this letter lets you know the plight of our Company, which has suffered a number of weeks of complete shutdowns due to the lack of these raw materials.

Very truly yours,

CARL H. SWICK,
Executive Director.

ENGINEERED YARNS, INC.,
Coventry, R.I., October 5, 1973.

The Honorable CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

SIR: I believe it is my responsibility to let you know that our company has laid off 50 employees out of a total of 220 because we are unable to get the polyvinyl chloride plastic that we need for our operations.

It is my understanding that our operations could be still more severely curtailed because there is a possibility that the Government will take propane gas, which is used by our raw material suppliers to make PVC resin, for other uses. Please bear in mind that if the Government does take propane gas away from PVC producers such as B. F. Goodrich Chemical Company, we and hundreds of other companies throughout the United States are going to be severely hurt.

I trust that you will make this viewpoint known in the proper channels in Washington.

Sincerely yours,

J. PLATT OKIE, *President.*

OCTOBER 12, 1973.

Senator CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: Due to the critical shortage of monomer and vinyl resins, industries such as ours in Rhode Island face serious curtailment or shutdown of operations.

It is our opinion that this shortage is due to a combination of factors including export sales or monomer, vinyl resins and vinyl scrap; the general energy crisis and particularly the energy crisis in Puerto Rico; the crude oil shortage—crude oil being the source of monomer; control which hindered new manufacturing facilities and associated chemical shortages.

We respectfully suggest that your office consider immediate legislation for an embargo on export sales of monomer, vinyl resin and vinyl scrap and emergency steps and definite positive action to assist American industry with regard to the other factors.

Loss of production and operational shutdown with their effect upon our employees and the citizens of Rhode Island will inevitably result if this situation does not change.

Thank you for your consideration and cooperation.

Sincerely yours,

VICTOR ELECTRIC WIRE & CABLE CORP.,
ABRAHAM R. GROBER, *President.*

CPL CORPORATION,
East Providence, R.I., November 21, 1973.

Hon. CLAIBORNE PELL,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: As a Rhode Island corporation deeply involved in the industrial coatings and plastic industry, we are compelled to write you with regard to the serious threat the current energy crisis poses for us and for many of our customers throughout the country. In particular, we are concerned with the petroleum feedstock situation which affects our sources of supply for the solvents and plastic resins we use.

The total demand on petroleum materials by the entire petrochemical industry, of which the plastics and coatings industries are a part, was of the order of 5% in 1972. The plastic resins industry required approximately 1.5% in that year. The seriousness exists in the fact that the indutsry has designed its production around very specific energy sources such as propane and the development of alternatives will take many months and millions of dollars if, in fact, such alternatives really exist for our suppliers.

Using 1970 as the base year, the Society of the Plastics Industry has calculated the impact of a 15% decline in production of petrochemicals on the various industries which use these materials. We enclose a photocopy of a page from the SPI's most recent publication "The Energy Crisis and the Plastics Industry".

It is apparent that we need a practical energy program right now and that program must take into account the strategic position which the plastics and coatings industries have in our state and country's total economy. The products involved are critical elements in manufacturing and a sharp reduction in their availability will have an incalculable effect on the nation's economy.

We hope this expression of our position will lend further impetus to any action you are now taking with respect to the current emergency.

Very truly yours,

GREGORY T. PARKOS, *President.*

FIGURE 6

IMPACT OF A 15-PERCENT DECLINE IN PRODUCTION OF PETROCHEMICALS

[1970 basis]

	15 percent decline in sales		Secondary market impact		Final market impact	
	Sales loss (million)	Employee layoff (thousand)	Sales loss (million)	Employee layoff (thousand)	Sales loss (million)	Employee layoff (thousand)
Plastics	$332		$645	12	$22,175	550
Synthetic fibers	155		425	10	4,390	110
Synthetic rubber and tires	44		150	2	580	15
Paint	33		510	11	6,000	150
Other	242		2,185	37	28,870	700
Total	806	15	3,915	72	62,015	1,525

PEARSON YACHTS DIVISION OF
GRUMMAN ALLIED INDUSTRIES,
Portsmouth, R.I., November 23, 1973.

Senator CLAIBORNE PELL,
Capitol Hill, D.C.:

As a manufacturer engaged in the production and distribution of fiberglass boats we wish to emphasis an impending crisis and threat to our industry. There is a distinct shortage in supplies of styrene and benzene both of which are critical and non replaceable components in polyester resin, the major base material in producting fiber glass boats. We need your help and positive action in releasing these components and resultant polyester resin from price controls in order to restore normal distribution patterns. Plant closings as a result of polyester resin shortages are eminent. Unless immediate release is obtained large and lengthy layoffs will result. We respectfully urge an immediate embargo on the exports of styrene, benzene, and polyester resin in order to protect our marine industry.

BILL SHAW,
Vice President.

W.A.Z. TOOL & DIE CO., INC.,
Rumford, R.I., November 29, 1973.

President RICHARD M. NIXON,
The White House,
Pennsylvania Ave.,
Washington, D.C.

DEAR MR. PRESIDENT: We are in the machine tool and plastic injection molding business and we are in need of your assistance because of the material shortages.

Due to Phase IV, plastic raw materials are being shipped out of the country at an alarming rate. If we are not able to buy the necessary raw materials, and fuel oil to run our machinery, we will be forced to close our doors.

We are a small business employing 45 people. Not only will these people be unemployed, but workers in this industry all over the country will be out of work.

We are very concerned with the various material shortages we are experiencing. We feel that we cannot afford to waste any materials and we would like to go into the recycling of plastics. Due to the size of this state, we feel that a recycling program could be started locally and serve as a model for the rest of the country.

Could such a program be set up and would the federal government help finance such a

project? If this program is not started soon, we can see no future for the machine tool and plastic industries.

There are over thirty thousand workers in the plastic field in this state alone, and that many people unemployed will be a disaster to the economy of this state.

We have asked all our employees to save energy in every way possible and pledge our complete cooperation in this time of crisis, but we are asking your help to save our business and the plastic and related industries.

Very truly yours,

WILLIAM A. ZANGHI,
President.

AVID CORP.,
East Providence, R.I.,
November 29, 1973.

U.S. Senator, Rhode Island Office,
Providence, R.I.

DEAR SENATOR PELL: Plastics as you know is in critically short supply which means many jobs will be lost in all activities dependent in whole or in part on the end products of same.

It is our opinion that due to Phase IV controls the raw materials are being shipped out of the country at an alarming rate since higher prices are realized.

We should have legislation allocating a percentage of what was shipped in previous years to any plastics leaving this country, just as we manufacturers are allocated at approximately 70% of what we bought last year. In point of fact if you didn't buy from a company last year they won't accept your order.

I would appreciate your views on this.

Kindest regards,

THOMAS A. SCANLON,
President.

ZYLON PLASTICS, INC.,
East Providence, R.I.,
December 4, 1973.

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am sure that you are well informed on the impact the current energy crisis has on the plastics industry.

First, we have an immediate problem that would appear to have resulted from price controls that make exports more profitable than domestic sales.

Second, the industry future will be controlled by the allocation of plastic feedstocks from the petroleum industry.

We are a small company, thirty-eight employees, but our product line is 100% plastic products. You can readily see how any effort you make to benefit the plastic industry also aids our future.

Very truly yours,

WALTER W. CHARBONEAU,
Vice President.

THE KNOBBY KRAFTERS, INC.,
Attleboro, Mass., December 11, 1973.

The HONORABLE CLAIBORNE PELL,
The U.S. Senate,
Washington, D.C.

DEAR SIR: I am a resident of Rhode Island employed by The Knobby Krafters, Inc. of Attleboro, Mass. who are custom molders of plastic products.

I am certainly aware of the present oil shortage as it affects our gasoline and fuel oil for heating.

With the powers that may be given to the President of the United States and the cooperation of the American people, we feel confident we can make it through the winter months.

What I am more concerned about is the small percentage of petroleum, 3%, which is used in the manufacture of plastic materials.

We are custom molders of plastic products and are already on allocations for some of our basic plastic materials. The future looks rather poor for us if we cannot get the necessary raw materials to satisfy our requirements.

Plastic raw material is a small percentage of our total cost of goods sold. Labor is the number one cost and although we employ only 50 to 60 people, we need to be assured of an ample supply to keep our factory operating on a profitable basis.

It is our understanding that exports of plastic material take the biggest bite of all. Manufacturers of raw plastic material are not hampered by price ceilings when they export to Hong Kong, Japan, Taiwan, etc. The molded plastic parts from this material are shipped back to this country to compete with our own products.

Plastic products have become a necessary component of many other products such as automobiles, televisions, electric equipment, furniture and most any product you might mention. A plastic shortage would slow down most other industries and have an adverse affect on the general economy.

I hope you will support any action that might help the plastic industry in this present emergency.

Very truly yours,

FRANCIS J. NARDOLILLO,
Superintendent.

PLASTIC MOLD AND ENGINEERING CO.,
East Providence, R.I., December 11, 1973.

The Honorable CLAIBORNE PELL,
Old Senate Office Building,
Washington, D.C.

DEAR SIR: We have turned down the thermostats.

We shut the lights off when they are not necessary.

We accept the fact that we can not buy gas on Sunday.

Maybe we will have to walk to work—but a job we must have, even if we do have to walk to it.

We are 160 people who are asking you to see that the Plastic Industry gets their fair share of the critical petroleum products needed to protect our livelihood.

Respectfully yours,

EDWARD C. SCANLON, *President.*

CUSTOMCOLOR, INC.,
Cumberland, R.I., December 12, 1973.

The Honorable CLAIBORNE PELL,
U.S. Senate, Washington, D.C.

DEAR SENATOR PELL: We wish to make you aware that our fair state is not exempt from the effects of the plastics raw material shortage, which already is having a cascading effect upon scores of industries, across the nation.

Our own company, having grown at the rate of 50% a year for the past five years, with employment increased from 8 to 80 over that period, is becoming a casualty of the shortage. The availability of polystyrene has been cut down to a trickle; our polyethylene allocation has been reduced to one third of what we consumed last year; polyvinyl chloride is almost unavailable and we are advised by our supplier that possibly some polypropylene will be delivered in the spring. Meanwhile Titanium Dioxide, the basic raw material for colors, is under such tight allocation that we can't purchase all we require to take care of normal needs.

The effect of these shortages will be catastrophic should they continue. Ironically we have been securing long term financing by means of an Industrial Foundation guaranteed by the State of R.I., designed to promote employment and growth.

We have resisted firmly frequent offers to sell overseas what raw materials are available to us at two, three, even four times the domestic price, cash at dockside. Our responsibility to our employees, our community, and our customers is foremost. But the fact of such offers, points up the error of our government's present policy.

Consequently we urge you to join our northern neighbors, Rep. Drinan and Sen. Kennedy, in advancing the removal of price controls on plastics raw materials. Such action, which has already been granted the fertilizer industry and others, will no longer make it more attractive to export materials. We also urge that the plastics industry be allocated its fair share of petroleum and natural gas supplies.

We furnish intermediate raw materials to most plastic fabricators in R.I. and throughout New England. Without our product our customer firms must slow down severely. The consequences of our plight could result in more than just increased unemployment, within our own organization. The effect could be devastating should the shortage continue to the extent that our customers' plastic processing operations are no longer able to supply vitally needed finished parts to dependent industries, from fibers to appliances to automobiles. We have 335 custom plastics processors in R.I. alone, involving 10,000 employees or 9.1% of total employment.

At this moment we sense an unresponsiveness of our government to our industry's plight. Please put forth your best effort to remedy this serious problem.

Sincerely yours,

HUGH AARON, *President.*

SCOTT LABORATORIES, INC.,
Fiskeville, R.I., December 13, 1973.

Hon. CLAIBORNE PELL,
U.S. Senator, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: Thank you for your letter of November 26, 1973 and the enclosed form 17 for increasing allocation of middle distillate fuels. We have completed the forms and returned them to Mr. Charles J. Cullen, Chief of Operations: Office of Petroleum Allocation: United States Department of Interior: Washington, D.C. 20240. We appreciate your help in that regard.

Further to the difficulties we are experiencing in obtaining fuel oil is our difficulty in obtaining polystyrene, a raw material necessary for the manufacture of our products which is a sterile disposable medical diagnostic supply. I am sure you are aware of the difficulty facing the hospital disposable industry as these difficulties relate to the oil shortage: more specifically to shortages in high volatile petroleum distillates such as benzene. I am aware of a meeting that took place last week among representatives of the pharmaceutical industry and Governor John Love regarding the health care industry's difficulties as they relate to the shortages of petrochemical feedstocks. It is my understanding that subsequent to that meeting a preliminary plan had been arrived at in order to insure priority distribution of the high volatile distillates to the health care industry.

In this week's issue of "Science News" it was reported that the new Federal Energy Administration headed by Deputy Treasury Secretary William E. Simon was considering plans to grant high priority to specific petroleum byproducts necessary for the health care industry. I am enclosing a copy of that article.

I would appreciate your help in instructing us as to the mechanism whereby we might place ourselves on some type of list for priority in increasing our allocation of polystyrene so that we may meet our current demands for products. I am taking the opportunity to write to Deputy Treasury Secretary, William E. Simon with the same inquiry. However, if you can be of any specific help to us in this regard we would greatly appreciate your intervention at this point.

Very truly yours,

STEPHEN J. SCHULTE,
Executive Vice-President.

DAVOL, INC.,
Providence, R.I., December 14, 1973.
Senator CLAIBORNE PELL,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR PELL: The situation of shortages of plastic materials appears to be getting worse; and as a Purchasing Manager for my company, I am deeply concerned as to what remedies are being explored by the Congress to relieve the situation.

Our Company is in the hospital disposable products business; and it would appear that our failure to deliver critically-needed goods to hospitals could create a serious problem.

I would like to suggest some alternative solutions to the problem which might ease the situation.

1) Restriction on all exports of plastic materials and the feed stock necessary to produce them.

2) Elimination of all Phase IV controls so that prices could seek their competitive levels.

3) Some priorities established so that sensitive industries, important to the welfare of the people, can be best served.

There are many industries in Rhode Island that are directly affected by this problem; and any immediate action by the Congress to solve this problem will certainly be appreciated by industry, job holders, and the general economy of the community.

Very truly yours,
JOHN F. MURPHY, *Purchasing Agent.*

IMPACT OF CANADIAN OIL POLICY ON MAINE

Mr. MUSKIE. Mr. President, for as long as I can remember, the people of Maine have cherished a close feeling of friendship with our Canadian neighbors. There are strong cultural links between our peoples. Canadians helped settle and build my home State, and continue to make major contributions to Maine economic and social life to the present day.

This winter, Americans and Canadians alike are suffering the uncertainties and fears growing out of the fuel shortages which affect both our nations. These fears are increased on our side of the border by the concern that the Canadian Government will block the export of residual fuel oil vital to two major papermills in Maine, with the potential loss of 8,000 jobs.

At issue is the question whether the National Energy Board of Canada will grant export licenses for continued shipments of residual fuel to Georgia Pacific Paper Co. in Woodland, Maine, and Great Northern Paper Co., based in Millinocket.

This situation has the potential to seriously undermine not only the good relations we in Maine have always had with our Canadian friends, but also the diplomatic harmony between our two Governments.

I believe this must not come to pass, and I hope the Canadians will agree.

On behalf of our colleague, Senator HATHAWAY, and of Congressmen PETER KYROS and WILLIAM COHEN of Maine, I would like to pose two questions to the Canadian Government. We believe the answers to these questions are vital to the good health not only of our State of Maine, but of the traditional comity between our nations.

First. Is it in the Canadians' own best interest to stop the flow of oil to these companies?

Maine and Canada have strong economic ties. We buy goods from Canada and sell our products to Canadians in return. We employ Canadian workers in our factories, shops, and farms. Canadians harvest wood in our forests for both Maine and Canadian mills. The State o' Maine Wood Products Co., is located in Daquaam, Quebec. The Fraser Paper Co., a Canadian firm, has plants on both sides of the border.

In the first 11 months of this year, almost 6.5 billion gallons of crude oil have been pumped from Portland, Maine, to Montreal refineries by pipeline, with Maine assuming the environmental risk associated with oil transfers.

And the Canadian national railway system stretches for 200 miles across Maine linking Quebec to the Maritime Provinces. Clearly damage to the Maine economy will mean damage to the economy of nearby Canada.

Closing of these mills would have a direct impact on Canada. Great Northern alone pays $5 million annually in wages and salaries to Canadian workers; buys $10 million in pulpwood each year from Canada; ships 7,000 carloads of freight on Canadian railroads; and ships thousands of tons of newsprint from Canadian ports. Purchases in Canada by Georgia-Pacific last year amounted to over $5 million.

My colleagues from Maine and I feel these facts provide compelling evidence that it is in the best interests of the Canadians to continue shipments of oil to Maine. We hope the Canadians agree.

Second. Have the Canadians thought about the long-range consequences of their action?

The oil shortage can place a severe strain on our traditional friendship with Canada. Both Americans and Canadians should recognize this. Our countries share the longest unrestricted border between two nations in the world. Our two nations have prospered from this cordial and open relationship.

As an example of this relationship, I have the honor and pleasure of serving as chairman of the Roosevelt Campobello Island International Park Commission. This commission was established as a symbol of the traditional bonds of friendship between Canada and the United States.

It is imperative, then, that the decisions we reach separately to deal with our own problems do not add to our neighbor's problems.

The future of United States-Canadian relations depends on our ability in time of stress to seek cooperative resolutions of problems affecting both sides of the border.

Mr. President, I and the other members of the Maine congressional delegation are hopeful that the Government of Canada will respond to the strong bonds and cooperative spirit which have characterized its relations with our Government.

I find it difficult to accept the idea that we are entering a period in which we will see a retreat from these close ties.

To believe otherwise would be to dismiss the experience of my lifetime and of almost 200 years of our Nation's history.

Finally, Mr. President, I ask unanimous consent that a telegram I sent yesterday to Prime Minister Trudeau of Canada, be printed at the conclusion of my remarks.

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

DECEMBER 20, 1973.
THE RIGHT HONORABLE PIERRE ELLIOTT TRUDEAU, P.C., Q.C., M.P.
Prime Minister of Canada, Ottawa.

DEAR MR. PRIME MINISTER: Together with Senator William Hathaway, Congressman Peter Kyros and Congressman William Cohen, I met this afternoon with representatives of the Great Northern and Georgia-Pacific paper mills which are located in the State of Maine. We discussed the acute problem facing both of these mills in the absence of any assurances that the National Energy Board of Canada will be able to approve export licenses for residual fuel oil shipments after December 1973 from their traditional sole supplier in the Province of New Brunswick. After consulting with our State Department and our Federal Energy Administration, the Maine Congressional Delegation felt that I, as Chairman, should take the unusual step of addressing you directly in order to bring this most difficult situation to your personal attention.

We have been mindful of the public assurances you have given that your government, while necessarily giving first attention to Canadian needs, will do everything it can to take account, as well, of problems on our side of the border. Our particular concern is that in these two cases the criterion of Canadian needs may be construed so narrowly as to result in unnecessary harm to the interests of the economies on both sides of Maine's border with eastern Canada.

As I am sure you are aware, the economies of Maine and eastern Canada are so intimately related that the threatened closing of these mills will inevitably have prompt and unhappy consequences for the citizens of both countries. I am told, for example, that among the some 8000 jobs which depend upon these mills, more than 1000 are held by Canadians. As a further example, I understand that over 50 wood mills in southern Quebec and New Brunswick now thrive on raw materials from Maine forests, and wood pulp valued at millions of dollars is purchased annually from Canada for use in these two paper mills.

My point here is that so serious a disruption of the closing of Great Northern and Georgia-Pacific would inevitably have adverse effects across the border as well. I would earnestly hope, therefore, that your authorities could bear in mind that the problem is not simply the arithmetic of current residual fuel demands in both jurisdictions, but has broader implications of which I know neither government wants to be unmindful.

I understand that authorities of our two governments have been in touch with each other about the more general problem both of us face in this difficult period of acute energy shortages, and I am told further meetings are contemplated at an early date. This is encouraging and is in the traditional pattern of Canadian-American cooperation. I know, however, that both of us are struggling with new problems of massive dimensions and that it is going to take time for us to sort the ways in which we can best take account of each other's problems. My concern is that the establishment of the mechanics for such cooperation will inevitably take time and that meanwhile serious injustice may inadvertently be suffered in the two cases at hand.

I have long taken a special interest in our relations with Canada and indeed have

been honored to serve on the Roosevelt Campobello International Park Commission. It is with this in mind that I have presumed to make this direct appeal to you and to ask you to do whatever you appropriately can to ensure that the applications for the mills in question are examined in the broad context of the need of both countries for continued cooperation.

I realize we are quickly approaching the Christmas Holiday Season, but the particular cases at hand are most urgent. If it would be helpful to your authorities, therefore, my colleagues in the Maine Congressional Delegation and I would be prepared to visit Ottawa within the coming week or ten days in order to help answer any questions, provide any further information and to explain more fully the depth of our concern as legislators.

With cordial best wishes,

Sincerely,

EDMUND S. MUSKIE,
U.S. Senator.

UNITED STATES-U.S.S.R. TRADE RELATIONS

Mr. CRANSTON. Mr. President, I ask unanimous consent to print in the RECORD a speech by Dr. Armand Hammer, chairman of the board and chief executive officer, Occidental Petroleum Corp. It was given at a Petroleum Club of Los Angeles lunch held in Los Angeles, Calif., on November 27, 1973.

The speech gives an interesting view of United States-U.S.S.R. relations by a man who has been developing trade between our country and the Soviet Union.

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

SPEECH BY DR. ARMAND HAMMER

Fellow Members of the Petroleum Club and Mutual Friends: I was very pleased to receive the invitation to speak before the Petroleum Club, where I have been a member more years than I care to remember. It brings back memories of 17 years ago, when Frank Barton, a well known petroleum attorney, invited me to lunch at the Petroleum Club. Frank tried to sell me some Occidental Petroleum shares. The stock was quoted 18 to 20 cents and there were 600,000 shares outstanding so the total market value was less than $120,000. I looked at the balance sheet and said "Frank, your shares are not worth 18 cents. Your total net worth is only $34,000. Besides you'll soon be insolvent as you have no working capital." Frank said they had picked up two leases which looked promising. I knew nothing about the oil business, in fact I literally would not at that time have known an oil well from a hole in the ground. However, I was in a high tax bracket and I was told dry holes were a good write off. So I loaned Oxy $50,000 to drill two wells for a half interest in the leases. With beginners luck both hit. One at Mountainview was fairly good and the other at Burrell brought in a little field. They said I brought them luck and they made me President. The rest is history and as you know Oxy is now the third largest corporation in California according to the Los Angeles Times.

To me the future looks bright . . . very bright . . . but I'll let the success we have had and the successes we hope to have speak for themselves.

We've weathered some bad storms . . . we've kept our eyes on the proper goals. We are clearly moving in the right direction . . . which, incidentally, reminds me of a story I heard in Europe about the pilot of a small European airline who announced to his passengers: "Ladies and Gentlemen, we have good news and bad news. The good news is that we are forty minutes early . . . the bad news is that we are lost."

I can assure you that Oxy has nothing but good news at present. For the first 9 months of this year our net income was 55 million or 74 cents a common share compared with a loss of 25 cents for the 9 months last year.

Since we are all petroleum people—and since many of you are well-respected competitors—I will not spend this half hour talking about my favorite subject, Occidental.

Those of you who know me will recognize how difficult this is.

That leads me into my subject matter, a venture which I'm sure many of you will pursue over new and different terrain; a controversial challenge of great magnitude—East-West trade.

I was in Moscow ten days ago and subsequently visited Warsaw, Geneva, London, Paris and New York, finally returning home late Sunday night . . . this is the first chance I've had to be warm and without an overcoat in nearly a month.

There are many doomsdayers around who are stating that "detente" has been a failure and that East-West trade is already suffering from the "morning after" effect of too many toasts and not enough meat and potatoes.

I have a little experience in this area and I am here today to tell you that those people are dead wrong. Detente *is* alive and well and East-West trade is *far* from crippled. Indeed, it is moving swiftly across the threshold of both our economies and could become one of the most important elements in international affairs.

In my opinion, trade between the United States and the Soviet Union is the cement, the linchpin, if you will, which helped to avoid a widening of the war during the recent crisis in the Mideast.

The leaders of the two countries—President Nixon and General Secretary Brezhnev—have seen what benefits can flow to the world from such trade and from such detente, the flow of which must now be considered irreversible in character.

They are political realists and they know that we must accept this chance for accommodation now . . . this year . . . or it may disappear and not emerge again for another decade—and the world does not need another ten years tension and cold war. There are some who approach detente in a euphoric manner. Others are more pragmatic. Give me the pragmatic ones every time. Euphoria passes swiftly, but the realist, the pragmatist, is able to recognize that precise moment when the forces of history combine to make possible what had previously seemed implausible.

As Victor Hugo once said: "Nothing is more powerful than an idea whose time has come." This is the time for the idea of detente-through-trade, and its powerful influence on the councils of the world is only now becoming evident.

I have not recently spoken to President Nixon about this, although I have closely observed his comments and those of such leaders as Secretary of State Kissinger and Secretary of the Treasury Shultz.

But I have spoken personally with General Secretary Brezhnev during a two-and-a-quarter hour meeting which took place in the Kremlin a week ago Friday.

At the end of the meeting Mr. Brezhnev graciously permitted Edwin Newman of NBC, who was travelling with me to prepare a documentary on my life to film our interview and to ask Mr. Brezhnev a series of questions. This film was transmitted for broadcast on the network that same day. Perhaps some of you saw it.

Newman reported:

"Leonid Brezhnev made it very plain that he vitally wants to do business with American companies and that he counts heavily on doing so. I have had a bumper crop this year," Brezhnev said. "First Secretary Shultz, then Kendall of Pepsi-Cola and now Hammer and other Americans have been to see me . . . and I want more."

Newman continued:

"Brezhnev had a sore throat and said his doctor had told him not to use his voice, but that this was so important that he would speak anyway. He sent personal greetings to the American people and President Nixon, whom he mentioned a number of times."

Newman added:

"It was obvious that Brezhnev's hopes of raising the standard of living of the Soviet people rests heavily with the understanding he has with Mr. Nixon. It also rests with other businessmen following Hammer's example. "Dr. Hammer has problems," Brezhnev said, "but I help him and he helps me."

Well, that sums up the Newman report.

Now, I'll give you the rest of it . . . the Hammer report.

This was the second meeting I have had with Mr. Brezhnev in the past year.

The first was also for two hours and I came away singularly impressed with the man. He has great wisdom, great empathy for the people of the world and very clearly has a great desire to lower the few remaining barriers of the cold war and introduce Russia and America into an era of peaceful coexistence through trade, based on economic conecessity.

Brezhnev has experienced war firsthand. He remembers the experience of the Soviet Union during that terrible period in World War II when over ten million people perished. War to Brezhnev—as it is to the Russian people—is still a live and vivid memory and one which they never want to undergo again.

Under Brezhnev's leadership, the Soviet people have begun to prosper. The average level of living has risen yearly by amounts that most westerns would consider exceptional. Diets have improved . . . more meat and more quality food and fewer starches are on the nation's tables . . . consumer durables are found in more homes . . . and Russian dress has clearly much improved. Per capita income has risen about 6.9 per cent annually. Housing is better.

Automobile production is beginning to grow. In 1970, only 344,000 cars were produced. This year they will produce about a million cars. Of course, at the moment there is only 1 car per 100 Soviet citizens, as compared to 1 for every 2 Americans, but as Will Rogers said during the depression, "We may be the first nation in the history of the world ever to go to the poorhouse in an automobile."

And the way the energy crunch has hit us, we might not even have gas for that.

Now, I don't recite these figures about the Soviet Union under Brezhnev as a litany praising their system. They have one concept of government and we have another.

Naturally, there will always be a difference in our ideologies. It remains for future generations to determine which social structure will be proven right.

But in the meantime, there is no valid reason why our two great peoples, with all the powers at our command, cannot work together as harmoniously as possible, confining our disputes to the ordinary matters of businessmen in competition, rather than in the zone of small wars conducted amidst the specter of nuclear arms.

I am an ardent capitalist. Anyone who knows me recognizes how strong I am in support of my country and its ideals. It is true that I was a friend to Lenin, which certainly does give me extra entree into the Soviet Union, but this was a friendship based on the humanitarian instincts of a very young physician-turned-businessman, who hap-

pened to be in the right place at the right time.

Some people recently have said, "Hammer has been a friend to Soviet leaders like Lenin and Brezhnev."

I answer, "Well, I've been a friend to every American president dating back to Herbert Hoover. Make something of that."

My point is that I think that I am also experienced enough in international affairs and pragmatic enough as a businessman to recognize the possibility of lowering the crisis-levels by communicating through trade.

This opportunity clearly is at hand. Recent events in the Middle East prove this. Brezhnev told me himself that the communications which had been established between our two governments as a result of the two Summits and the trade agreements were such that it made the dialogue that much easier during the October crisis.

He knew Nixon and Kissinger. They knew him. A foundation had been established between them. They were not strangers, suddenly disputing a volatile point in Mideast history. Instead, they were statesmen who had a personal reference point from which to begin . . . and a national promise that could be fulfilled by national solutions.

I am an optimist and believe we will have peace. I think a valuable lesson in the world of detente-through-trade has been learned.

Brezhnev was very emphatic in his comments about President Nixon. He has a respect and a warmth for our President, as he does for the American people.

He is serious about East-West trade and, in my judgment, he will be successful in furthering transactions with western businessmen.

He asked me specifically to move more swiftly in completing our international trade center in Moscow. As you know, we signed that agreement in late September. It is scheduled to be completed in 42 months, but Brezhnev wants it opened sooner in sections, to support the influx of businessmen who are streaming into his country.

Now you know me. No one has to tell me twice. So I have promised him that we will accomplish this much sooner, and I already have people hard at work on finalizing the details. As you know, all of the private part of the financing has been arranged for this, with the Chase Manhattan serving as the lead bank.

Incidentally, in conjunction with that, I told Mr. Brezhnev I would be glad to add a personal gift to help our weary executives—a golf course, the first in the Soviet Union.

He immediately accepted.

The idea came to me recently as I was flying into Moscow. The countryside a scant half hour's ride outside Moscow is beautifully suited to a country club. And I thought, "Well, why not?" I insisted that there had to be a relaxing indoor swimming pool in the new hotel we are building, and I've heard some of my executives complain that they never have enough time to play golf. So, we'll give them a chance to play in Moscow. Of course, a good part of the year winter rules will apply, but it will be one other small, but important gesture to help the ambiance of trading with the Soviet Union.

On behalf of your future landlord in Moscow, I'll extend a welcome right now. The food will be good, the beds will be comfortable and the rates will be right. Of course the competition will also be there—and not the least of it will come from Occidental Petroleum.

But a little competition doesn't harm any company. If nothing else, it keeps our executives a little thinner.

Of course, to you and me, the main areas of interest are in energy, as well they should be.

We worry about preserving our natural resources. So do many of the Russians. There are many in the Soviet Union who would rather "keep the resources for our grandchildren," as they say, than permit them to be expended in trade with the West.

But the West is short of raw materials and the Soviets are short of modern technology to extract their resources. That common denominator means that somehow these two powers are inevitably going to be interwoven in all manner of energy transactions, for despite the difficulties of Siberian extraction, the fact of the matter is that the Soviet Union—onshore and offshore—still has many of the untouched major basins in the energy world.

A good example of that interest is the list of the 189 American companies who were recently present at the Oil and Gas Show in Moscow. They recognize the possibilities . . . the demand is there, and where there is demand there is trade.

Energy, because of the massive amounts of money necessary, is naturally the focal point.

But detente-through-trade is a lot more than just energy. And it is the thousand other transactions that will take place which are going to solidify this detente.

We see evidences of it already in many investments being made in Russia—long-term loans and technical aid being proposed, in exchange for repayment in products or raw materials . . . of which the Occidental fertilizer agreement is a good example. We made a deal to sell them $200 million a year of phosphates from our Florida mines in the form of superphosphoric acid made under a patented process by our Garrett Research Corporation of LaVerne. We also agreed to purchase $200 million a year of ammonia and urea. Our country has a surplus of phosphates but a deficiency of ammonia and urea which are made of natural gas. Thus this deal will help our farmers and help our balance of payments.

We see evidences of what is to come in the recommendation of the Soviet Academy of Sciences to the GOSPLAN—the State Planning Committee—for the 15-year plan which is being readied for the period 1976–1990. That recommendation stresses trade with the West and particularly makes the point that complex trade is essential for long-term and binding transaction which will create, as they say, "a more intensive involvement with the West."

So it is all there my friends.

Detente is alive and trade will grow stronger and stronger.

There is much to do and there will be difficult times as well as good times.

It won't all be a bed of roses.

As Brezhnev said to me: "There are problems with Hammer."

He's right. There are, because I'm a businessman and I owe it to my shareholders to drive hard bargains.

Brezhnev is a businessman too. There is only one Chairman of the Board in the Soviet Corporation and he is it. He drives hard bargains, as some of you already know and as others will soon find out when they become involved.

It hasn't been easy—nothing this worthwhile ever is.

But the impossible dream is now a reality. A whole new area of world business is suddenly developing before our eyes.

Of course, there are hard-liners on both sides who will attempt to interfere with it.

There are as many Russians who don't want to make capitalists rich, as there are Americans who don't want to help Communists with U.S. technology.

But Henry Kissinger said recently: "It is essential that our two countries have mutual vested interests which will bring about mutual restraint."

George Shultz said: "We must seek to improve economic relationships with others, not only for economic but also for political gains. The world in which we live is now completely interdependent and no one can do it alone."

And Leonid Ilyich Brezhnev said: "I've had a bumper crop of Americans visiting me . . . and I want more."

I think those signals are clear enough. I look forward to the years ahead. We are involved in an important mission here, for in this instance we businessmen are also statesmen, and our efforts may be reflected in the peace of the world for years to come.

I can think of no greater challenge, one I readily accept, and one which in the spirit of friendly competition I also encourage to you.

Perhaps some of you know, 12 years ago I returned to Moscow for my first visit in some 30 years on a special mission for the Kennedy Administration, which asked me to explore the possibilities of developing trade with the Soviets and helping our balance of payments.

Kennedy at that time told a story I think appropriate today.

He said that the famous French Marshal Lyautey asked his gardener to plant a special tree.

"But Marshal, it takes 100 years for this tree to reach maturity," the gardener said.

"In that case," Lyautey answered, "there is no time to lose. Plant the tree this afternoon."

My friends, the tree is planted and the roots are deeper than we ever dared hope. Now it is up to us to bring it to flower.

When it starts to grow our world and the world of our grandchildren may indeed be a happier and better place. What a marvelous challenge that is for we ordinary businessmen who so seldom have the opportunity to share in the accomplishment of such a great dream—to bring peace to the peoples of this world.

FURTHER CHANGES STILL NEEDED IN FOREIGN AID

Mr. CHILES. Mr. President, as a member of the Foreign Operations Subcommittee of the Appropriations Committee, I have taken an active interest in what we call foreign aid. The trouble is that foreign aid is not just one thing but a whole lot of things. Sometimes it is credits and sometimes it is grants. Sometimes it helps people and other times it helps governments. Sometimes it is for disaster relief, other times for economic development, and still other times it is for military hardware. Sometimes we administer the money ourselves because we think we do it better, and other times we channel it through international institutions because we think they do it better.

Foreign aid is a confusing morass of different programs to serve different policies and purposes that we have. From the beginning of my concern with aid, I have felt that the more that the different programs are separate from each other the better it is for the Congress and the public. Then each program stands or falls on its own merits. Then we see each program in relation to its specific objective rather than talking about foreign aid as a single program supposedly serving a single purpose.

I voted against the foreign aid authorization conference report. I did this because after beginning the legislative process this year with two bills—one for economic assistance and one for military

credit sales and assistance—the separate authorization bills were put back together again. I felt this to be a terrible setback for what seems to me to be a minimal starting point for congressional control over a program. To have bilateral economic assistance for disaster relief and economic development, aid to Israel, military credit sales, reconstruction assistance to Indochina and the U.S. contributions to the U.N., the Inter-American Development Bank, the World Bank, and the Asian Development Bank, all in one bill is a shambles. There is no way that a program can be voted on in terms of its own merits when they are all thrown together.

I am hopeful that next year we can at least separate the military and economic bills from each other as we legislate.

In our bilateral economic assistance program, five new categories were established to replace the old loan and grant authorities of the 1961 Foreign Assistance Act. Three of these new categories give emphasis to aid for poor people—food, nutrition, health, population planning, and education. These are priority areas which do respond to the desire of the American people to help the needy abroad. The more that the Agency for International Development—AID—specifies where the money is going the better.

The Congress of this country is in no mood to give away power of the purse by authorizing and appropriating money to general categories and vaguely worded line items where we are not sure what the money is going to be used for. That is why we cut back on items like "selected development problems" and "selected countries and organizations." It is also why we put tighter controls on the contingency fund and the transfer authority of the agency.

The Congress has been most responsive this year to the areas of innovation and change in the program of AID. The agency should take note of this and realize that coming to the Congress to get authority for new initiatives is not only the constitutional way of getting money but in the end I think will prove to be the more effective way of gaining support for the program than requesting money for undefined purposes and asking for the benefit of the doubt.

This same principle of separating out expenditures so we know how much is going for what purpose also applies to AID's administrative expenses. Here the practice has been that AID requests an arbitrary amount for administrative expenses and then makes up the rest by charging it against its grant program. This mixes up the two accounts. It means that we do not have a real handle on either administrative expenses or grants. I strongly urge the agency to separate out administrative expenses in its presentation next year and to include all these expenses in one category.

What I am arguing for really, is the kind of budget reform that I think is necessary throughout our Federal budget. We need a functional budget in this country which shows us how much we are spending according to the different goals that we have, rather than a bureaucratic budget which only shows us how much the different departments and agencies get, regardless of what purposes they serve.

My own feeling is that the changes in the bilateral program in this legislation can still go further in emphasizing people-oriented programs and disaster relief and getting away from a large financial role in promoting roads, dams, ports, and the like which are really the business of banks. This year I put forward the idea of a time limitation on AID's financial role as one means of moving the Agency away from its banking functions and toward its catalytic role of getting people to help themselves. This is an idea which needs more airing and attention. I plan to pursue it further next year, as I believe it to be responsive to the public's desire to end the notion of foreign aid as a giveaway.

Finally, I am greatly disappointed in the final determination of the appropriations for the Inter-American Development Bank's Fund for Special Operations. This is the window of the IDB which finances development projects in Latin America through soft loans. It is this window that makes the IDB a development bank, rather than a commercial bank. And it is the U.S. contribution to this window which the Latin Americans look at to see just how much we are willing to do on behalf of Latin American development. The Inter-American Development Bank was created, after all, as a vehicle for the United States to contribute to development in Latin America.

In April of 1970 the United States negotiated a $1.5 billion replenishment for the IDB Fund for Special Operations for 1971 to 1973 whereby the United States would put up $1 billion and the Latin American countries would put up $500 million. This reduced the U.S. participation in the replenishment to 66 percent from 75 percent in the previous round. As of the end of this month the Latin American countries will have paid up their $500 million. The United States is way behind on its contribution having put in only 50 percent of its contribution for the 1971–73 period including this appropriation.

I feel that the executive branch should be more prudent in making this kind of commitment when it cannot be sure what our economic situation will be or what the Congress will be willing to provide. But it also seems to me that we are again showing the Latin Americans that they are on the backburner by lagging behind in our contributions to the development window of the IDB. I would have preferred to see us budget less for the hard-loan windows of the IDB and raise the amount for the Fund for Special Operations. This would have sent a more positive message to Latin America than we have with this appropriation.

I am hopeful that over the next year Members of Congress will increasingly realize the importance of Latin America to us and the wisdom of paying closer attention to our neighbors. I think there has to be a closer scrutiny of IDB procurement practices and administrative expenses. If these can be cleared up, I believe the Congress should find the means to make a greater and more timely contribution to the development activities of the Inter-American Development Bank.

SENATOR RANDOLPH ACTED TO INSURE AN ENERGY POLICY 14 YEARS AGO BUT "NOBODY LISTENED"—CHARLESTON, W. VA., GAZETTE EDITOR COMMENDS FORESIGHT OF WEST VIRGINIA'S SENIOR SENATOR

Mr. NUNN. Mr. President, all of us in this body have the greatest respect and affection for our colleague and friend, Senator JENNINGS RANDOLPH. For many years he has been an outstanding Senator. He advocated more than 14 years ago certain definite steps which all Americans certainly now agree should have been taken by our Nation.

I know that my colleague here in the Senate and all Americans who now ask "How did we get into this energy crisis?" will read with interest Harry Hoffmann's article which appeared in the Charleston Gazette on December 18, 1973. I believe that many persons who were not listening to JENNINGS RANDOLPH's sound advice in the field of energy in the past will now turn an attentive ear to this knowledgeable and capable Member of the U.S. Senate.

I, therefore, ask unanimous consent that the article be printed in the RECORD.

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

[From the Charleston, (W. Va.) Gazette, Dec. 18, 1973]

NOBODY LISTENED

(By Harry Hoffmann)

So far as is known, no one has ever accused—or credited, as the case may be—West Virginia's Sen. Jennings Randolph of being either a prophet or a spreader of gloom and doom.

But the present energy crisis—which has a great many people at the point of panic, especially the Nixon administration—has firmly established Randoph as a prophet who was warning of the approaching dangers long before he could find anyone to listen to him.

Indeed, more than 14 years ago, Jennings Randolph was a lonely voice shouting in the wilderness—not only about the scarcity of energy sources and the need for a national fuels policy, but also the hazards of the United States depending upon foreign supplies.

In fact, on Aug. 18, 1959, Sen. Randolph introduced a Senate concurrent resolution calling for a creation of a Joint Committee on a National Fuels Policy—an effort which won the support of the Committee on Interior and Insular Affairs, but which was killed by the Senate Rules Committee in an action that now must be judged as nearsighted if not foolhardy.

But Randolph did not stop with that setback. Instead, he became even more determined to head off what he foresaw as a national calamity, highlighted by his effort in 1970 to establish a national commission on fuels and energy, only to be rebuffed by the Nixon administration.

Randolph's most far-reaching outlook on the approaching energy crisis, in light of present conditions, came however on June 12, 1961—more than 12 years ago—when, in testimony before the Senate Interior Committee, he observed:

"In June, 1961, the world—the United

States included, of course—has available more energy fuels in the form of coal, oil and natural gas than currently we can use. In reference to oil, the word, I think, is "glut." From recent oil discoveries in North Africa, it would appear that there are still vast sources of supply that have not yet been discovered. Who knows what the continent of Africa may hold in the way of energy?

"This is fine, but it is a small source of comfort and security to Americans living in Maine, Minnesota or Montana that what might become an anti-American land has in her earth unlimited quantities of the same kind of energy fuels that are the very lifeblood of America. What guarantee do we Americans have that the African continent, or Venezuela, or Kuwait, or any of the other prolific oil areas of the world will constantly make their riches available to us? What good will Venezuelan oil be to the United States if Latin America embraces communism, or if Africa turns against us or if the Soviet Union decides to effect a coup d' etat in the Middle East?

"Every year that passes, in which we become more and more dependent on foreign oil to buttress our national economy and security perhaps is one year nearer disaster. What makes this all the more tragic is that it is unnecessary. The United States of America, the richest country the world has ever known, is by its own complacency gradually placing itself at the mercy of those it should most diligently guard against. By neglecting to apprise ourselves of the true, unbiased, realistic picture of our own energy wealth and stability, we are gambling with our country's future.

". . . This nation has a foreign policy, a defense policy, a farm policy and the beginnings of a transportation policy. All are necessary and of first importance. But not one of them is so basic to our national security and economy as would be a national policy in respect to those energy fuels that make all of them possible and without which, or lacking an abundant available supply of which, would render all other national policies impotent and would disarrange our country industrially, economically and militarily."

These were words—a warning, if you will—spoken by West Virginia's Sen. Jennings Randolph as the United States and the world moved into the decade of the '60s.

If someone had listened, Secretary of State Henry Kissinger might not today be traveling through the Middle East trying to convince the Arabian countries that they should take a more brotherly stance in the distribution of their oil.

If Richard Nixon had paid attention to what Randolph was talking about 12 years ago, even 14 years ago, he might today be enjoying the rewards of statesmanship instead of telling the American people to turn down their thermostats and turn out their lights—and finding it necessary to plead that "I am not a crook."

If the Senate and the Congress had been guided by Jennings Randolph's perception in 1959, in 1961, or even in 1970, the American people today might not be inconvenienced by the unavailability of gasoline on Sundays, the prospect of gasoline rationing, and even the threat of economic recession or depression.

When one reviews the record of the foremost problem of the day, West Virginia's Jennings Randolph stands out as a man ahead of his time in setting a course for preventing what is now a plague on the nation.

Unfortunately, there were too few with the equal foresight to listen to his warnings. In his respect, he surely was a man ahead of his time, shouting loudly upon deaf ears.

THE ENERGY CRISIS

Mr. STEVENSON. Mr. President, I want to talk for a few minutes about the energy crisis; to ask several questions and suggest some answers:

What are the dimensions of the crisis?

How did it happen?

What can we do?

And I want to suggest, as strongly as I know how, that the Nixon administration, whose timidity and shortsightedness are in part responsible for the crisis, and the oil industry whose greed and irresponsibility are also in part responsible, must not be allowed to shift the entire cost of this crisis to the American people.

For years the Esso tiger, the Sinclair dinosaur, and their employers urged us to gorge on gas. Utility companies enticed us with energy-devouring appliances from electric toothbrushes to electric face cream dispensers. American architecture perfected the steel-and-glass skyscraper, hermetically sealed against the climate, designed to be artificially cooled in summer and heated in winter.

Thus we learned to live as if there was no end to the energy supply—and we in America came to consume about 30 percent of the entire world's energy output.

Now, it seems, the bubble has burst.

Suddenly we face the prospect of cold homes, disrupted factory schedules, shutdown schools, late deliveries of mail and commercial goods—even widespread layoffs and unemployment.

How did it happen?

The first thing to understand is that the energy crisis is not a crisis of nature's supply; there is plenty of petroleum in the Earth and under the sea. The energy crisis is not a crisis of nature, but of our economic and political machinery. The problem began with failures and misuse of that machinery—and we can find solutions only by changing that machinery.

We are being told that our own wastefulness is the reason for the energy crisis—our growing dependence upon the highway, the high rise and the high life.

But that is only partly true. And to change our habits, as we are being asked to do, will solve only part of the problem.

The stark fact is that we are in trouble, not only because of our high energy demands, but because the Federal Government—specifically the Nixon administration—has left the Nation to the whims of the big oil companies.

Last spring, for example, the oil companies contrived a "gasoline shortage"—at a time when they actually were holding the highest supplies of gasoline ever. They used this contrived shortage as an excuse to cut off supplies to their last remaining competitors—independent jobbers and dealers who sold gasoline at a discount. The Nixon administration not only went along with this pressure against the independents; it adopted controls which permitted the big oil companies to increase their prices, but caught the little dealer in a squeeze. About 3,000 of them were forced to close their doors this year.

With crude oil available these major oil companies, starting in 1972, operated their refineries at reduced levels and urged the public to buy more petroleum. What happened was a classic case of corporate profiteering. They then increased the price of gasoline some 39 percent, and their profits rose 63 percent in the first 9 months of 1973. Exxon, the country's largest oil company, increased its profits in the third quarter of this year 80 percent over the same quarter last year. The oil companies, abetted by the administration, have been fattening on the oil crisis—and they are hoping to fatten some more.

The stark fact is that oil—the Nation's largest and most pampered industry—has waxed larger and enjoyed more pampering under Mr. Nixon's administration.

For years, the profits of the oil industry have rested in part upon Government concessions: depletion allowances, import quotas, tax writeoffs for "intangible drilling costs."

What the major oil companies have given us for all these favors is promises—promises that concessions by Government would result in increased production and would lessen our dependence upon foreign suppliers.

But the promises did not come true. And now, ironically, we have the worst of both worlds. Despite all the concessions, domestic production is declining and we are more dependent upon foreign supplies.

Perhaps we should not blame the oil industry, whose concern, after all, is not for the national interest but for its own profits.

But what can we say of the Nixon administration, whose first concern should be for the many rather than the few?

When the administration's own commission urged 2 years ago that import quotas should be lifted to increase supplies, the administration—ever faithful to the industry—did nothing.

When the oil industry denied that a fuel crisis was in the offing—a denial that flew in the teeth of all the evidence—the administration did nothing. The President, in fact, sent his spokesman to Capitol Hill all through the spring to assure us that no extraordinary measures were needed.

When the Congress last spring gave the President emergency power to allocate fuels to ensure fair distribution—the administration did nothing.

And now, with the crisis upon us, the administration tells us that the key to adequate supply—the key to a solution—is higher prices and higher taxes.

Higher prices—for an industry whose profits are already derived in large part from tax advantages.

Higher prices—for an industry which, in spite of threatened shortages, failed to start construction on a single new U.S. refinery from 1969 to 1973. It built them in Europe.

Higher prices—for an industry whose profits are high and rising; an industry in which competition is at best a myth; an industry whose 20 largest operators control 86 percent of the Nation's refinery capacity, 70 percent of oil production and 93 percent of the pipelines through which all our petroleum flows.

The stark fact is that the people are being asked to pay the costs for the energy crisis—while the giants increase their profits.

And meanwhile, the President has sought to blame the American people, the Congress and the Arabs for a situation that is largely the result of his poor leadership.

We in the Congress have been concerned about the energy crisis for at least a year. We have been busy—and noisy—on the subject. But we have received little cooperation and little response from the opposite end of Pennsylvania Avenue.

I was part of a successful effort last spring to give the President authority to allocate petroleum products. Since then I have repeatedly urged him to use that authority—but with little success.

I also began an effort to increase Federal support for research on the mining of coal and its conversion into clean-burning gas and oil. We won that fight; in the Congress we doubled Federal support for coal research.

On December 7 the Senate approved a $20 billion, 10-year research and development effort. That legislation could lead to the development of not only coal, but geothermal and solar sources of energy, oil shale, tar sands, and others.

In all these efforts, we have had no inspiration, no direction, and no cooperation from the President—until only a few weeks ago when the crisis hit.

So efforts to affix blame upon the Congress will yield little but greater resentment. What is needed now is prudent planning—and prompt action.

What must we do?

In any moment of crisis, that is the paramount question. Research is for the long run. Additional oil will not come down from Alaska for another 5 years, and when it does, it will go primarily to the west coast. We lost the fight against the Nixon administration and the oil companies to route it to the Midwest where it is needed most. A resumption of Middle East oil production would certainly help, but not enough. We are in competition with Europe and Japan for Mid-East oil, and both Europe and Japan are more dependent on it than we are. Other countries, including the Soviet Union, will increase their demand for Mid-eastern oil.

In the short run—right now—we must conserve fuel. That means dialing down our thermostats, as the President has urged us to do. It means holding down highway speeds and burning fewer lights.

It also means that we must ration gasoline. If we are to increase the manufacture of essential petrochemicals and fuels like heating oil and diesel fuel, gasoline production must go down. If we are to avoid chaos in our industrial and agricultural life, the remaining supplies must be rationed according to the greatest need.

That is, to be sure, a disagreeable prospect. But it will be more disagreeable if we come to the problem once again with too little, too late.

How disagreeable will rationing be when it comes? The answer depends upon our national leaders; upon their ability to fashion a system that distributes gasoline according to need, rather than to those with the most money and the most influence.

But some form of gasoline rationing is inevitable. The alternative is a crisis of cold homes and closed factories.

Sacrifices like these will help to solve the problem. But the President is wrong to suggest that the crisis can be overcome if we, the people, tighten our belts.

Something more is needed: the changes in political and economic machinery that I mentioned earlier.

If anything is clear by now, it is this: energy policy in the United States must no longer be subject to the whims of the oil industry. The American people and the American economy must not be at the mercy of the oil industry.

Fortunately, the Nation still has very substantial oil and gas resources—how substantial no one can say because the Government maintains no inventory. It doesn't even check the unreliable figures of the oil and gas industry!

All we know is that our oil and gas resources are still substantial—and that some 60 percent of these resources are owned by the public in the form of lands on-shore and off-shore owned by the Federal Government. I have introduced legislation to create a Federal Oil and Gas Corporation to assure that these enormous resources are produced quickly and for the benefit of their rightful owners—the American public.

Such a public corporation would not only produce oil and gas for the benefit of the public—it would help keep the major oil companies honest. It would give them some competition. I have proposed many other courses of action, including regulation of the petroleum pipelines and regulation of the price of natural gas charged in intrastate commerce by the big oil companies.

I have urged the Justice Department to enforce the antitrust laws—while the administration has proposed exempting the oil giants from the antitrust laws.

I have urged that oil and gas wells on public lands either be produced or forfeited. Many are shut in now by oil companies waiting for higher prices.

How far will we get with all these efforts, I do not know. The administration and the giant oil companies continue, in unison, to oppose every measure that would render this giant industry accountable to the American people.

But I do know this. Some major changes are essential: changes that go beyond sacrifices by individual citizens. White House slogans like "Operation Independence" will not end the energy crisis. Hiring and firing energy czars every 6 months will not end it. Strong rhetoric coupled with weak decisions will not end it.

Only constructive change can end the crisis. The proposals I have described offer ways, not only to produce new energy, but to preserve our free enterprise system.

For this crisis—and the public and congessional outrage it has produced—are a kind of handwriting on the wall. And the message that is being written is this:

If this country is permitted to suffer at the hands of one large, highly concentrated, integrated, and unaccountable industry, that industry will someday be fully regulated—or broken up or nationalized. And I don't want to see it come to that.

So the issue is joined, and the battle is begun. I look forward to the fight—knowing that our ultimate well-being depends upon its outcome, and believing that, even against these great and powerful forces, our American qualities of good sense and fair play will prevail.

THE LAST OF THE BEST

Mr. McGEE. Mr. President, my chief adviser on environmental matters, Mike Leon, of Story, Wyo., has reached into his voluminous files, extracting a small but pointed bit of evidence to demonstrate how we have, for too long, neglected innovative thinking and imaginative applications of simple physics even while relying almost entirely on the burning of fossil fuels to energize our way of life.

Mr. Leon recently authored an article, which appeared in the Sheridan (Wyoming) Press, in which he quotes a 1942 news report by Scripps-Howard science editor Howard Dietz on "a new type of streamlined windmill" then in operation on a Vermont mountaintop. It sounds so familiar; very much like a device recently featured in a television report. And that is just the point of Mr. Leon's article: so much time elapsed and so little done.

Western man, and very notably the American man, has chained himself to the combustion process like, as Mr. Leon writes, "ancient mankind afraid to leave its campfire." Yet our planet and its atmosphere are bursting with other forms of energy as well, the wind included.

Mr. President, I ask unanimous consent that Mike Leon's article from the November 28 edition of the Sheridan Press be printed in the RECORD.

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

THE LAST OF THE BEST

(By Mike Leon)

On the desk beside me on this late November morning of 1973 is a yellowing page from a Scripps-Howard chain newspaper dated Friday, May 1, 1942.

Ancient history? Indeed not. For in this relic of the journalistic past is an article that, in this fall of 1973, Time of Energy Crisis, has an oddly haunting, reproachful quality: so much time elapsed and so little done.

The article is by Howard Dietz, Scripps-Howard Science Editor and he began by saying that "A new type of streamlined windmill may become as familiar a sight in certain parts of America as the historic towering giants of the Dutch landscape."

Dietz pointed out that "thousands upon thousands of farmers and ranchers, in regions remote from electric-power lines," were using wind-powered generators to run their radios.

Much larger windmills, Dietz reported, after interviewing a Harvard University engineer, "may become an important source of energy."

As an example, Dietz cited a windmill which had just gone into operation on a Vermont mountaintop.

"Instead of the usual wheel with many blades, "Dietz wrote, "this windmill makes use of but two blades, appearing like a gigantic airplane propeller.

"These blades, designed in accordance with the latest knowledge of aerodynamic theory, are approximately 87 feet long and 16 feet wide at their widest portion. They sweep over a circle of 175 feet as they revolve.

"They have a variable pitch so that they maintain a constant speed of 30 revolutions per minute for any wind velocity from 15 to 70 miles an hour. The pitch of the blades is changed by automatic governors when the wind velocity changes.

Then the punch line:

"This mill is capable is delivering over 1300 horsepower, operating an electric generator which delivers 1,000 kilowatts.

1,000 kilowatts from one 1942 model windpower plant? In a time of energy shortage it boggles the imagination to think of what we could do with many thousands of such plants on a grid using today's rotating shaft technology and generating skills.

The mill, I believe, functioned well during World War II, was damaged in a storm and was never repaired. We may be sure it was not abandoned because it had been tried and found wanting, any more than Henry Ford's first creations were thrown out as having no future because they were unreliable. Doubtlessly, the mill served a purpose which seemed to lose its meaning as we plunged into our post-War revels, secure in the knowledge that oil and gas would last forever and that nuclear power was just around the bend.

The mistake is obvious now. We are chained to the combustion process, like ancient mankind afraid to leave its campfire. We cannot conceive of energy that does not come from the burning of fossil fuels. We are moles, frightened by the sun, offended by the wind. And yet, in the end, somewhere not far up the road, our fossil fuellishness must end, and we must make use of the alternatives. If later, why not now? Why not now when we still have a priceless reserve of fossil fuels that will make such a transition possible and afterwards provide essential feedstocks? It is already thirty years since the promise. It is time for the fulfillment.

Each time we lean against the Wyoming wind, cursing its malicious fury, we might remind ourselves that in its formidable potency may be an unperceived blessing.

LEGAL SERVICES

Mr. CRANSTON. Mr. President, efforts to pass legislation to establish a national Legal Services Corporation to insure an independent program of legal services for the poor were frustrated once again in the Senate just before the Christmas recess. A filbuster launched by opponents of the legal services bill prevented it from coming to a full vote of the Senate.

Had there been a vote on the merits, I am confident we would have adopted the legislation creating an independent, nonprofit legal services corporation which could be out of reach of partisan political interference. We will get another chance to pass it in late January of 1974.

The legal service program created out of the war on poverty in the 1960's has begun to give poor people the vital tools they need to gain full participation in our society. The program was one of the most successful to come out of the Johnson years.

In California, I have witnessed again and again the tremendous impact of the legal services program in securing justice under the law for the poor. Successful prodding of the establishment has resulted in making food available to hungry citizens in every county in the State; elderly persons have been afforded essential health care to which they are entitled; various consumer fraud schemes preying on the poor have been successfully halted; discrimination in employment is being challenged; and 80,000 Spanish-speaking citizens were enfranchised by the elimination of an English literacy requirement for voting.

These cases, among the 85 percent that are brought successfully on behalf of poverty clients, prove that our system of justice can be evenhanded and that those who seek to redress grievances against the establishment can obtain rights and benefits under the law by working through the system using the law courts and administrative tribunals of our justice system.

Legal services programs and legal services attorneys have earned the hostility of some people who want things to stay as they always have been. Some Government officials and some Government agencies have attempted to bring political pressure or to pass laws to prevent legal services attorneys from bringing lawsuits representing poverty clients in certain types of cases.

They have not been too successful generally, but have disrupted program efforts.

Legal service programs have many friends too. I was glad to join Senators GAYLORD NELSON, WALTER MONDALE, JACOB JAVITS, ROBERT TAFT, and EDWARD KENNEDY in the latest effort to enact legislation protecting the program from political interference. I look forward to entering the fight again in 1974.

MISSING IN ACTION

Mr. PELL. Mr. President, Christmas means something special to each of us. For the nearly 600 prisoners of war who returned from Indochina, and their families, this is a most special Christmas—the first since their return from captivity. I know all of us share the joy that this holiday season brings to these men and their families.

At the same time, at this holiday season, let us all remember that there remain some 1,300 families in our country of men listed as missing in action in Indochina, for whom Christmas holds no special promise this year. Some of the missing men have been gone for over 9 years; some were lost as recently as the early months of 1973. Their families continue to live with the anguish and uncertainty of not knowing the fate of their loved ones.

Under the Vietnam agreement of January 27, 1973, the Communist side is obligated to provide information on the missing and to return the remains of the dead. I deeply regret that the Communist authorities have refused utterly to live up to this humanitarian obligation. Not a single missing man has been accounted for. No remains have been returned.

Our delegation in the four party joint military team, which has met regularly in Saigon, has tried week after week to bring the Communist side into compliance on this subject. In May, the team traveled twice to North Vietnam to visit cemeteries where Americans were said to be buried, and some of us thought then that this might lead soon to the return of at least these remains. But even that small step did not take place.

In the meanwhile, search teams from our Joint Casualty Resolution Center have carried out their humanitarian mission to the extent possible in South Vietnam. The FPJMT informed the Communist side of each search mission before it took place.

Despite these arrangements, Vietcong forces ambushed the JCRC team December 15, killing an American officer and a Vietnamese pilot and wounding several others. I join in condemning this unprovoked, coldblooded murder of unarmed men whose sole purpose was the peaceful, open mission of searching for the missing and dead.

I hope Secretary Kissinger has made known the strong feelings of our country on this grave action. I hope he also has told Special Adviser Le Duc Tho of the concern felt by the American people about the lack of accounting for our missing men.

Among the 1,300 missing are a number of men for whom there are definite indications that they survived the shootdown of their aircraft, or, as a minimum, that the Communist authorities must know what happened to those men. These include cases in which photographs were subsequently published showing one of our men under guard in North Vietnam, clearly alive—but his name has not appeared on any list either as a POW or as having died. There are cases of men whose ID cards were seen or photographed in North Vietnam. In other cases there are eyewitness sightings of a man surrounded on the ground in North Vietnam, about to be captured.

We all recognize that we cannot hope for information on every one of our men who is missing. Some may have crashed in the sea or in a manner than left no trace.

But there are some cases in which information is available. And it is the height of cruelty for North Vietnam to withhold that information from the families who continue to wait, not knowing for certain what happened to their men.

International concern on this subject was expressed at the International Conference of the Red Cross in Tehran, Iran, November 8–15, 1973.

The conference unanimously adopted a resolution on accounting for the missing and dead in armed conflicts. From my contacts with the leadership of the International Committee of the Red Cross in Geneva, I know how seriously they take their responsibility for helping to search for and trace the missing in action after armed conflicts. I regret that North Vietnam has refused to cooperate with the ICRC on this humanitarian subject.

As a further indication of the serious-

ness with which we view this subject, I hope our representatives at further Red Cross meetings and at the forthcoming diplomatic conference on humanitaran law applicable in armed conflicts will seek to strengthen provisions on accounting for the missing and dead during and after armed conflicts in the Geneva Conventions of 1949. I would hope that such action would help convince North Vietnam even at this late date to take steps to live up to its humanitarian responsibilities.

Another measure that the United States can take to support the efforts of the International Red Cross on behalf of the Americans missing in action is promptly to increase our present meagre annual contribution to the International Committee—ICRC. On October 16, I introduced S. 2588 to increase this contribution from $50,000 to $500,000. I understand that the Department of State transmitted the bill with a strong endorsement to the Office of Management and Budget for review. OMB's reply is pending. This is a matter of too great urgency and consequence to permit delay or haggling.

In another area, too, of humanitarian assistance the ICRC is proving its value and need, namely, the assistance and relief of civilian war victims of both sides in the recent Middle East hostilities. These efforts are described in an article appearing in the New York Times of December 4.

I ask unanimous consent for printing in the RECORD the text of the resolution on missing in action adopted at the International Conference of the Red Cross at Tehran; the text of remarks by Dr. Frank Stanton, chairman of the American National Red Cross, introducing this resolution at the conference; and the text of the article in the New York Times on the ICRC.

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

RESOLUTION ON ACCOUNTING FOR THE MISSING AND DEAD IN ARMED CONFLICT

Adopted unanimously by 22nd International Conference of the Red Cross, November 14, Tehran, Iran.

The 22nd International Conference of the Red Cross, recognizing that one of the tragic consequences of armed conflicts is a lack of information on persons who are missing or who have died, including those who died in captivity, and

In conformity with the humanitarian traditions of the Red Cross and with the spirit of the Geneva Conventions of 1949,

Calls on parties to armed conflicts, during hostilities and after cessation of hostilities, to help locate and care for the graves of the dead, to facilitate the disinterment and return of remains, and to provide information about those who are missing in action;

And further calls on parties to armed conflicts to cooperate with protecting powers, with the ICRC and its Central Tracing Agency, and with such other appropriate bodies as may be established for this purpose, including National Red Cross societies, to accomplish the humanitarian mission of accounting for the dead and missing, including those belonging to third countries not parties to the armed conflict.

INTRODUCTORY REMARKS BY ARC CHAIRMAN STANTON ON POW-MIA RESOLUTION

The search for information about those who are missing during and after armed conflicts is one of the most difficult responsibilities associated with the name of the Red Cross. The problem is present in the aftermath of virtually every armed conflict: We all recall pictures of relatives standing at train stations, or at dockside, as prisoners of war returned from captivity, with signs asking "Does anyone have information on my son?" or father or husband, as the case may be? The ending of armed hostilities is always welcome—but for the families of the missing it is a time of special difficulty. The certainty of knowing a loved one has died would seem preferable to the drawn-out anguish of not knowing the fate of one who is missing in action.

The Red Cross has a natural and traditional role to play in resolving this humanitarian problem. For over 100 years, information bureaus organized by the Red Cross have helped find and exchange information on those who died in captivity and others missing in connection with armed conflicts.

The purpose of the resolution we have joined in proposing is to remind the parties to armed conflicts—whatever the circumstance and wherever they may be—of the importance of this humanitarian problem, and to call attention to the role of the national societies, the ICRC, and the tracing agencies and the protecting powers in resolving it. The resolution calls on parties to armed conflicts to help locate and care for the graves of the dead, to facilitate the disinterment and return of remains, and to exchange information about those who are missing.

It applies equally to soldiers and civilians, including, for example, journalists. This resolution covers persons of all parties—including those not parties to the conflict.

These tasks are traditional responsibilities of the parties to armed conflicts—and it is a Red Cross tradition to help resolve them. There can never be 100 percent success. But there should be recognition of the humanitarian obligation of parties to armed conflicts. I hope this conference will support this resolution unanimously.

The resolution was sponsored by the governments of Denmark, Mexico, the Netherlands, Norway, Pakistan, and the United States and the Red Cross Societies of Australia, Brazil, Canada, Ethiopia, the German Democratic Republic, Great Britain, Iceland, the Netherlands, Pakistan, and the United States.

RED CROSS HAPPY AT MIDEAST STEPS

GENEVA, December 2.—The newly reorganized International Committee of the Red Cross underwent its first test in the Middle East war in October, and its officials have expressed satisfaction with the result.

They pointed, for example, to the call this private organization of Swiss citizens addressed to both Israelis and Arabs early in the war for the introduction of far-reaching new rules aimed at sparing civilians the horrors of battle.

They also cited the organization's public rebukes of Israel, Egypt and Syria for conditions they were attaching to their observance of obligations under the Geneva conventions protecting the victims of war.

A Red Cross source said that under the old committee structure the war might well have been over before a decision was made to send out an appeal for a trial of rules of warfare not yet ratified by the international community.

Similarly the committee, by promptly expressing the public's dissatisfactions with the conduct of nations, in an effort to bring pressure on them, departed from the more diplomatic approach of an earlier age.

"Call it a more aggressive information policy," one Red Cross official said.

REORGANIZED IN JULY

The reorganization, undertaken last July, has become necessary because the Red Cross, established to act as a neutral intermediary in conventional wars between European states, found itself ill-equipped to meet the calls on it since World War II.

The Congo and Nigerian civil wars, the Indochina conflict, urban guerrilla actions and plane hijackings by Palestinian commandos all placed heavy demands on and posed unexpected problems for what had been a relatively small and slow-moving organization.

Steeped in a European-oriented tradition, the committee was accustomed to taking a prudent, legalistic approach to its tasks, in keeping with the conservative outlook of its mostly elderly members. These, who may number from 15 to 25, often come from the highest levels of Swiss society.

Created on the initiative of five Geneva citizens in 1863 with the goal of relieving the suffering of battlefield wounded, the committee has always been identified with Geneva. Its headquarters here is a converted hotel overlooking the Palais des Nations, the sprawling building that the United Nations took over from the League of Nations after World War II.

The committee's membership has always been limited to Swiss citizens. The "international" in the title is derived not from its composition but from its purpose of relieving suffering the world over.

This purpose produced the four Geneva Conventions, or treaties, that codify international law concerning the treatment of sick and wounded army and naval personnel, prisoners of war and civilians who fall under the control of a foreign power as the result of war. These pacts were drafted by a 63-nation conference in 1949. Their origins can be traced to the first "Geneva Convention" written by 14 nations in 1864 at the behest of the founders of the Red Cross.

NEW EXECUTIVE SETUP

The new reorganization took from the committee and president virtually all the executive authority they exercised and placed it in the hands of the new executive board chief, Roger Gallopin, a 63-year-old native of Geneva who has been with the International Red Cross since 1936.

The committee now functions as an assembly that is called upon to deal primarily with broad policy questions, with the president's role being reduced largely to that of "first among equals." Marcel Naville, a Geneva banker, resigned the presidency when the new administrative organization was made effective on July 1. He remains a member of the committee.

His successor as president is Dr. Eric Martin, a former chancellor of the University of Geneva.

The fresh challenge that was presented by the October war just after the reorganization strengthened the hands of the staff and is said to have instilled a new spirit among the 220 men and women at the committee's headquarters. They believe that they responded as well as circumstances permitted to the events in the Middle East, where the committee has stationed 15 of the 80 "delegates" who are now on field assignments.

"We have a feeling of satisfaction over the exchange of 8,300 Egyptian prisoners and 240 Israelis held by Egypt that was carried out in 70 flights of the four planes the Swiss Government provided us," a Red Cross spokesman said.

"But there is still the refusal of Syria to abide by the conventions and the issue of the protection of civilians in the territories occupied by Israel," he noted.

APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE

Mr. McINTYRE. Mr. President, yesterday, the Senate adopted the conference report No. 93–741 on the fiscal year 1974 Department of Defense appropriations bill, H.R. 11575.

I would like to take this opportunity to congratulate the distinguished chairman of the Appropriations Committee, my good friend from Arkansas, on the excellent work of his committee.

In particular, the action taken in deaccelerating the pace of construction of the Trident submarine by denying $240 million requested advance procurement funding to start submarines 5, 6 and 7 will accomplish a major objective of the amendment which I introduced during the debate on the military procurement authorization bill. There was substantial support for that amendment and it failed by a margin of only two votes.

The effect of this action by the Senate will be more far reaching than the immediate savings of $240 million for the taxpayer. It will eliminate the unwarranted concurrency that would have resulted in all 10 of the submarines being in various stages of construction before the first one became operational. It will restore the program to a schedule that is more consistent with the Department of Defense "fly-before-buy" policy. It will reduce the substantial technical risks which the Navy was willing to assume. There now will be the opportunity to incorporate in later submarines the lessons learned in developing and building the earlier models. This will insure that the fleet will be more modern while at the same time minimizing the possibility of substantial cost overruns and costly modifications which have plagued us in the past.

As I have said before, the importance of this vital strategic weapon system is not at issue; and I am among its strongest supporters. However, it will bear continued close watching to insure that it progresses in a satisfactory manner.

The actions of the Appropriations Committee under the able leadership of Senator McCLELLAN are completely consistent with this philosophy.

ATTORNEY GENERAL SAXBE

Mr. PELL. Mr. President, I was delighted to support the nomination for Attorney General of our colleague, the junior Senator from Ohio, WILLIAM B. SAXBE.

He is a man who all of us have come to respect and admire. I am confident that he will do a fine job in the Justice Department. And his kind of direction and leadership is needed in the Department of Justice at this time. I wish him well in every way.

IRVING SHAPIRO

Mr. BIDEN. Mr. President, a significant segment of the population of my State of Delaware and a considerable part of its economic stability rely on the operations of the E. I. duPont de Nemours Co.

Soon the leadership of that corporation will come into the hands of a capable and respected Delawarean, Irving Shapiro.

The December 15, 1973 edition of Business Week magazine contains a profile of Mr. Shapiro.

My knowledge of "Irv" Shapiro coincides with the passage of that article:

Shapiro is a very independent thinker who has the courage of his convictions. In the area of public affairs and national issues, and in the legal area, he has done an outstanding job. He is a good analyst and a good decisionmaker.

I would like to add my congratulations to Mr. Shapiro on his achievement and ask unanimous consent that the entire text of the Business Week article be printed in the RECORD.

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

A MANAGEMENT LEAPFROG AT DU PONT

Some time very soon, the gaze on the portrait of Eleuthere Irenee du Pont de Nemours will look across the grandiose boardroom table of the giant chemical company that bears his name while Irving S. Shapiro, the 57-year-old son of a Lithuanian-born Jewish immigrant, is voted chairman and chief executive officer.

Shapiro's ascendancy to the top, replacing board chairman Charles B. "Brel" McCoy, shatters the 171-year tradition of closely tied family and Wilmington Brahmin control. McCoy, the son of a Du Pont executive, is expected to announce his retirement shortly, with Shapiro succeeding him as both board chairman and as chairman of Du Pont's all-powerful executive committee. The announcement will drop the curtain on a drama launched by McCoy last July, when he picked Shapiro, a junior member of the executive committee and a lawyer, to become vice-chairman.

In a company where top executives pride themselves on saying "there are no surprises here," Shapiro's promotion surprised almost everyone in Wilmington below the very top ranks of Du Pont. Even Shapiro was startled. He recalls being called in for what he thought was a routine meeting with McCoy a few days before the announcement: "I talked for maybe 10 minutes about things I was doing, then he chatted awhile. Abruptly, the conversation changed, and I didn't really grasp what he was saying. I asked for a pencil and paper and took notes."

The plan McCoy unfolded before the surprised, scribbling Shapiro had already been cleared with members of the board and Shapiro's colleagues on the nine-member executive committee, which guides Du Pont's destinies on a day-to-day basis:

McCoy would retire from the presidency, but stay on as chairman until no later than April, 1974, when he will become 65.

He would continue to hold the chief executive's rein, even though the title had traditionally been held by the president throughout Du Pont's history.

Shapiro would leapfrog from the junior spot on the executive committee to become vice-chairman and heir apparent to McCoy.

A new title, president and chief operating officer, would be created for Edward R. Kane, whose operating background contrasted with Shapiro's long service in Du Pont's legal department.

Kane, a 54-year-old chemist, had been the odds-on favorite for over a year to replace McCoy as chairman and chief executive because he was vice-chairman of the executive committee. But it did not work that way.

Instead, McCoy concluded that the complexities of running a vast, multinational business in today's environment could best be handled by two top executives sharing the load. McCoy, a very private and somewhat introspective man, picks his words carefully. "Times and problems change, so an organization keeps changing," he says. "It, too, changes with the character of its people. Many other companies have two men at the top. Timing is the variable, reflecting both internal and external conditions. You must have the nice coincidence of the right people at the right time."

THE SHAPER OF PUBLIC POLICY

Kane, the product of a classic Du Pont operating career, had climbed steadily through a series of technical and management jobs, working chiefly with nylon and Dacron, to general manager of a department and a slot on the executive committee in 1969.

But the top spot will now go to a man who has never held operating line authority with Du Pont or anywhere else.

"Shapiro is a very independent thinker who has the courage of his convictions," says Edwin A. Gee, a Du Pont executive committee member who is Shapiro's next door neighbor. "In the area of public affairs and national issues, and in the legal area, he has done an outstanding job for us. He is a good analyst and a good decision-maker."

Although Shapiro insists it is "too simplistic to call me Mr. Outside and Kane Mr. Inside," his more than 20 years of counseling Du Pont's top officers built him a reputation for a strong grasp of public policy as well as legal affairs. McCoy observes that "a great deal has to be done on the outside. As I analyzed the jobs to be done, and who could do them best, I came up with Shapiro's name."

The name McCoy came up with was that of the first-born son of a Minneapolis pants presser, Sam Shapiro. Irving Shapiro was born in 1916, only four years after his father arrived in this country.

In 1924, Sam Shapiro opened a dry cleaning shop in Minneapolis, still operated on Franklin Ave. by Irving's brother Jonas. A third son, Leonard, left the business to open a carpet store. But Irving was encouraged to study law by his father, who himself read law at home as an off-hours pursuit. Shapiro received his law degree with honors from the University of Minnesota in 1941, financed in part by a $200-a-year, interest free loan from a law school fund.

After graduation, Shapiro hung out his shingle in Minneapolis and spent much of his time searching titles. Early in 1942, on the recommendation of a law school professor, he was offered and accepted a job with the Office of Price Administration in Washington. There he occupied a desk next to another junior OPA functionary, Richard M. Nixon. With a salary of $2,000 a year, Shapiro felt affluent enough to marry his college sweetheart, Charlotte Farsht. He remembers co-worker Nixon as "charming, light-hearted, completely different from his later image."

Nixon soon left for the U.S. Navy. Asthma-sufferer Shapiro, 4F, moved on to the Justice Dept., where from 1948 to 1950 he was assistant prosecutor of the case against 11 Communist Party leaders, who were charged with failing to register as agents of a foreign government under the Smith Act. Shapiro won the case and a subsequent appeal.

WINNING THE GM STOCK CASE

Recalling his role in the much-published trial, Shapiro says that a Du Pont lawyer, Oscar A. Provost, read an article about him in the *New York Times* and invited him to lunch. "Out of that meeting came the idea that I might go to Wilmington," says Shapiro.

After joining the Du Pont law department in 1951, Shapiro worked his way up during the next decade to head the legal platoons Du Pont mustered to twice win trial court decisions that Du Pont need not divest itself of some 63-million shares of General Motors stock. Du Pont lost subsequent government appeals of those decisions in the U.S. Supreme Court, and at about the time that the

last of the GM stock was distributed in 1965, Shapiro was named assistant general counsel.

Five years later, he took command of Du Pont's response to a summer-long interrogation by a seven-man team from Ralph Nader's Center for the Study of Responsive Law. Shapiro, the official contact, recalls that "when they came in, they thought they had the right to wander through the halls, walk into any man's office, and talk about anything they wanted. We said no dice."

Shapiro insisted on formal interviews, held in his presence and taped, averaging about two hours in length. In addition, the Nader group conducted hundreds of outside interviews. When the report, called *The Corporate State,* was published in 1971, it blasted the company. Shapiro now says of the interviews: "They were designed in the nature of cross-examination, to elicit factors adverse to the company. They were not designed to get any facts favorable to the company."

Deeply wounded, McCoy said at the time: "We would have welcomed constructive criticism of our role. But one looks in vain to find it. Every corporate action is attacked, even those in which the company expends large amounts of time and money on community projects.

Now, neither McCoy nor Shapiro wants to talk about the Nader report, which Shapiro terms "water over the dam." But Shapiro's meteoric rise at Du Pont paralleled the appearance in Wilmington of the Nader investigators, with all that they implied about new social and political demands impinging on the company.

In midsummer of 1970, Gee planned to be away on vacation at the time a new executive committee member was to be selected, so he wrote a letter to McCoy recommending Shapiro. "My recommendation is Shapiro," he wrote, "who has as high a level of admiration and acceptance by the departments as any man in the company. It would be a popular choice which could give the organization additional confidence in the flexibility of present management and in our merit system." The remark was about as close as anyone at Du Pont, excepting Shapiro, comes to referring to the fact that Shapiro is Jewish.

THEN THE EXECUTIVE COMMITTEE

Still, the appointment of Irving Shapiro to the Du Pont executive committee on Sept. 1, 1970, was at least as big a surprise to the rank and file at Du Pont as his later appointment as vice-chairman. The executive committee is the pinnacle of Du Pont. The men on it have traditionally spent their working lives with Du Pont and have proved their merit as general managers of an operating department before being allowed to guide corporate policy and oversee the operating departments.

Under McCoy, observes one senior executive, the committee shifted "from a judicial to a legislative body." Instead of each member giving advice to all Du Pont departments on specific areas of expertise, McCoy assigned each member liaison responsibility for specific departments. Richard E. Heckert, the newest member of the executive committee, was general manager of the fabrics and finishes department until October. There, his executive committee liaison was Shapiro, who was getting an inside view of the workings of an operating department for the first time. "He is a very sensitive and empathetic person," says Heckert. "I thoroughly enjoyed that relationship."

Says Shapiro, pondering his appointment to the executive committee: "The question I ask myself now is, would I have the guts to make the same kind of move? I won't know until I have the same kind of issue. But it was gutsy. I didn't even know McCoy well. We had only encountered each other from time to time on business. Here I was sitting down there as assistant general counsel. And he makes a move no one in the history of the company has made. First, picking a lawyer, then jumping a man a number of levels. If you want to measure a man's courage, that's the supreme test."

In many companies, such a move would not be a "supreme test." But at Du Pont, it was a shocking break with tradition that dramatized McCoy's flexibility. When McCoy became president and chief executive officer in December, 1967, Du Pont was having its troubles. Earnings were off 20%. Key patents, which had held an umbrella over the price of nylon and other big volume products, had expired, attracting many oil companies into the petro-chemical business, and opening opportunities for companies such as Celanese, Monsanto, and Allied to expand their fiber business. The result was overcapacity and plunging prices. The Kennedy Tariff Round cuts had opened the gates to imports that hurt Du Pont's biggest customer, the U.S. textile industry. That year, Du Pont plants ran at only 75% capacity and its average product sale price had dropped by 12% since 1962.

As McCoy took over in 1968, the nation was plagued by student unrest and anti-war riots. "We are citizens first and businessmen second," McCoy wrote at that time, "and neither we nor our organizations can service a crumbling social structure." This was a sample of the kind of thinking that would eventually lead to his choice of Shapiro as his successor.

M'COY'S MASTER PLAN

With the recession of 1969 and earnings again declining, McCoy began to implement the strategy his associates say he spent his first year coolly developing. He set a five-year annual profit growth target of 6% to 10%, and trimmed Du Pont's payroll by 12,000. He also approved a group of 24 new products targeted for quick profitability, including Qiana, a high-fashion fiber; Nomex, a flame-resistant nylon; Freon food-freezing systems; and a new line of electronic instruments. This year, the group will net Du Pont $71 million on sales of $500 million, although one new product, Corfam, became a highly publicized $100-million flop.

In addition, McCoy put a new stress on multinational operations, increasing Du Pont's overseas investments 60% to $1.6-billion and doubling international sales to $1.5-billion since 1968.

McCoy also cut basic research operations and redirected the R&D budget, which this year totals $270-million, so that two thirds is spent adding products onto established lines while one-third is earmarked to develop brand new businesses.

Until this year, Du Pont's profit performance had not improved materially under McCoy. But in 1973, earnings have increased more than 40% on a 21% sales gain over last year. "Any man hopes to leave a company in better shape than he found it," says McCoy, commenting on his own record. "But we'll need more time to judge. Perhaps we will have a better idea when Shapiro's time is up."

Shapiro is considerably less reticent. "I think Brel has accomplished one of the great business performances of our age. He doesn't seek publicity, but if you look at the company when he took over, there is simply a beautiful story to tell," he says. "McCoy conducted a quiet revolution and got the company back on its feet."

In the process, new men have been moved into 80% of the top management slots. Irenee du Pont, Jr., is the sole survivor of the executive committee McCoy inherited. For the first time, moreover, the board has two outside directors.

When McCoy leaves the executive committee, Irenee du Pont, the highest ranking of the eight family members working in the company, will be its senior member. He is one of Shapiro's strongest boosters. "Shapiro has a confidence about him and a willingness to talk with anybody who has a problem," he says. As for not succeeding himself to the post the family has controlled through most of the company's history, Irenee du Pont once told a visitor that, "as a stockholder, I wouldn't vote for me." He adds: "This company must be run by the best people able to run it. There are only 1,000 or so descendants, and half don't qualify because of age. It would be a remarkable quirk if among the blood relations there were several candidates with the immense mental ability needed to run this company."

The link between those descendants and the Du Pont company will be altered by their recent decision to merge the chemical corporation and Christiana Corp., a family holding company that controls 28.3% of its stock. The merger, which will be made through an exchange of stock, was stimulated, says Irenee du Pont, by "a growing feeling on the Christiana board that there was no reason to carry on this expensive operation." Because of double taxation about 7% of Christiana's net income goes to the government, he says.

The merger is now awaiting approval by the Securities & Exchange Commission. Shapiro observes that "in the days of identical management interest, having Christiana oversee Du Pont made a lot of sense." But, he says, "if the Du Pont family people are not as prominent, you have a situation in which the interests of the management of Christiana conceivably could be different than those of the management of Du Pont. There is some concern that if someone wanted control of Du Pont, the easy way would be to get a significant portion of the Christiana stock."

THE CHRISTIANA MERGER

Shapiro expects a favorable SEC ruling on the merger. Beyond that, however, there must be a tax ruling and the conclusion of a suit brought by Chicago attorney Lewis C. Murtaugh, who represents several Du Pont stockholders who object to the merger. The trial is scheduled for next February in Wilmington, where it was transferred from Chicago. The dissenters charge that the merger terms do not reflect the discounted market price of Christiana's stock, and that the deal would provide a windfall for the latter's shareholders.

If the merger goes through, Du Pont will get other Christiana holdings, including a little less than 1% of the company's $4.50 preferred stock, about 3.5% of the common of Wilmington Trust Co., and full control of Wilmington's two newspapers. Du Pont wants no part of the ownership of the papers, and Shapiro will sell them. "I can't do anything until the deal is completed," he says. "People contact me, I add them to the list." So far, there have been about 40 inquiries, he says, "not all of them in the U.S."

Shapiro and Kane are taking charge of a company that paradoxically is riding a crest of undreamed-of profitability while facing unexpected problems and uncertainties brought on by the energy crisis.

Last year for the first time, sales exceeded $4-billion; this year the volume is expected to reach $5.2-billion, while earnings are estimated at $600-million. Like the rest of the industry, Du Pont has been running all year at capacity—at times beyond the theoretical limit. But Dacron production has been cut 10% and nylon nearly 5% because of raw materials shortages. Other lines have been dislocated temporarily, either by feedstock or fuel shortfalls.

Until recently, analysts pointed to Du Pont's secure supply position as protection against such perils. Analysts point out that unlike other chemical companies, which typically buy 10% to 20% of their materials

on spot purchases. Du Pont policy calls for long-term contracts for more than 90% of anticipated needs. Because of the length and size of those contracts—the company aims for terms of at least five years—suppliers will do their best to honor them, Du Pont has theorized.

Now the key question is how good the Du Pont's suppliers "best" will be. Suppliers can't sell what they haven't got. But Du Pont's size helps it to shift supplies internally to maximize output. Moreover, notes Goldman, Sachs analyst Jay R. Harris, "Du Pont has probably the highest value-added product line of any of the major chemical makers. They are in a good position to pay the price and outbid anybody for raw materials," either long-term or spot.

Shapiro says flatly, "No businessman has enough facts to make long-term judgments now based on the energy outlook. My guess is that a number of the problems will be worked out if everybody acts responsibly. But the facts aren't on the table. We're going to have an energy problem even after the Middle East is resolved."

Declares Shapiro: "What's needed now is solid public definition of every resource we have and how to use it. Then a study on how to get additional reserves. We must have facts and established public policy so that business can begin to make decisions."

Shapiro and his associates think they are making headway convincing both Washington and the public that the petrochemical industry must be assured the 5% of the nation's oil and 10% of natural gas that it consumes as feedstocks. They argue that an allocation plan is needed to protect the millions of "downstream" jobs in all the industries that use textile fibers, plastics, and chemical components and derivatives.

AND NOW THE ENERGY CRUNCH

Kane says that Du Pont has doubled its total production in the past decade with only a 50% increase in energy. "We now have a business selling energy conservation services to other companies," says Kane, "and the average saving is 25%. That's just based on what we have done. I think we can cut another 10%."

Kane has spent as much time outside of the office as has Shapiro since their new assignments were announced last summer. But while Shapiro was visiting plants for the first time and calling on top business leaders, Kane has been working with industry groups and Washington to sell the industry's supply message.

Kane agrees with Shapiro that the two will work both in and out of the company, wherever they are strongest. "The either-or-area will enlarge in the future, I believe," says Kane. Asked whether he was disappointed in not becoming chairman, Kane responds: "Mainly, I felt a sense of relief that we had the course set. My philosophy is that all the jobs I have had at Du Pont have been good ones."

Describing his new post as chief operating officer, Kane says: "I'm just one of the guys responsible for growth. Broadly speaking, it is extremely important to set the right course. Let's say that's pretty well set. Then our job is to keep it in tune and to keep our options open as the world scene shifts."

Shapiro agrees the course is pretty well set. "I would like to see the company move in the direction McCoy has pointed it," he says. "We are going to be a world company, not just an exporter, but a major factor in the world's fiber business. We are going to develop new businesses in pharmaceuticals, instrumentation, and electronics. And we are going to be closely attuned to the marketplace."

As he prepares to become chairman, Shapiro says that "it has been a strange period in my life." At first he tried to carry his regular workload, "but things have changed." One thing that may not change is his habit of answering his own telephone. He says he has sought opportunities to meet leading businessmen and has been pleased with his reception. Although, he says, "the title and the Du Pont oval on your back dresses you up in a way that gives you a tremendous acceptance."

Meanwhile, he is "working desperately to make sure that my private life isn't changed too much." He has been able to average two nights at home a week since July, plus weekends. "It's a seven-day-a-week job. Weekends are when you get ready for Wednesday's executive committee meeting," he says. On Sundays he enjoys a game of golf with his wife at Wilmington's Brandywine Country Club. According to his daughter Beth, 25, a legal secretary who lives at home, he is "happy to break 100." Shapiro says, "I'm a hacker." (The Shapiros also have a son, 29, who is a New York lawyer.)

Shapiro likes to putter around the three-acre tract on which his three bedroom, seven-year-old ranch style house stands. Neighbor Gee, however, says, "He's no outdoorsman. I saw him pulling some vines one day. He got a monumental case of poison ivy."

That itch pales beside Shapiro's urge to see an energy policy hammered out so that "we can begin to make decisions for growth." Adds McCoy: "When Shapiro and Kane take over, they don't start from scratch. The plants are here. The customers will be the same. They'll have the same men to work with."

"Nobody will be a hero on this energy crunch," McCoy thinks. "They'll use their best judgment to use the tools they have to solve their problems and seize their opportunities," and, he smiles, "to try to figure out what's being done wrong now."

HOW THE PRESIDENT CAN HELP IMPROVE VICE-PRESIDENTIAL SELECTION

Mr. HUMPHREY. Mr. President, last week the special Vice-Presidential Selection Commission of the Democratic National Committee, which I chaired, completed its work and recommended several changes in the Democratic Party's Vice-Presidential selection process.

In a moment I would like to share with my colleagues the recommendations of that commission.

But first, Mr. President, I wish to offer some observations on how the President of the United States can, if he chooses, take steps now to help improve future selections of vice presidential nominees in both parties.

The DNC's Vice-Presidential Selection Commission recognized fairly early in its year of study and debate that the political parties are able only partially to solve the problems that have plagued us recently in choosing candidates for the Nation's second highest office.

The parties cannot change the Constitution, or the primary election laws of the States. In the case of our Commission, we heard numerous proposals for such changes, but were obliged to dismiss them as being outside the scope of our authority and our mandate from the DNC.

We also heard proposals to change the nature of the job of Vice President. That, too, is outside the range of authority of the commission and party. But unlike the proposals for constitutional and State law changes, this is an area in which the President has direct and immediate authority to act.

The Vice President is, more than anything else, the creature of the President, in terms of his duties and authority. There is no detailed job description in the Constitution—only the provision that the Vice President presides over the Senate, and may break tie votes in this body. As President Harry S. Truman once observed, there is room for initiative here; it is one of the rare positions in which it is the man who makes the job, rather than the job making the man. But, outside the Senate, it is a job with much responsibility but little authority. The President giveth the Vice President his powers and duties, and can and often does taketh away.

That is a crucial point in understanding the Vice-Presidential selection process. The role of Vice President, and our perceptions of it, directly influence our attitudes as we choose men to fill this important position. It is well-known that many men, going back as far as Thomas Jefferson, have held the job and come to regard it as one of little importance. It is said, though seldom if ever proven, that some men have been offered the nomination for Vice President and turned it down.

I submit, Mr. President, that political party conventions and Presidential nominees would do a better job of choosing candidates for Vice President if the job were raised from this low level of esteem and elevated to one of greater prestige and authority. It is unlikely that many candidates will ever campaign as vigorously for the second place on the ticket as they do for the first. All the best men want to be President. That is as it should be and, given the nature of the political beast, probably as it shall remain.

But too often, when the nominee for President has been chosen, it is as if a great sigh of relief goes up from the convention, and the Vice-Presidential nomination is disposed of almost as an afterthought. The choice too often has been made on the basis of giving the ticket geographical balance, or appeasing dissident elements in the party, or other considerations. Only secondary regard is given to the nominee's qualifications, integrity, leadership ability and those other characteristics that should be uppermost in selecting the person who might suddenly become President.

If any President would seem to have a personal interest in helping improve the chances of first-rate Vice President being chosen in the future, it would seem to be the President who is in the White House now.

We have recently completed the arduous process of confirming a new Vice President under the 25th amendment's provisions. No man has ever undergone so rigorous an examination in running for an office, as Mr. GERALD FORD experienced before becoming the 40th Vice President of the United States.

But, if the President is disinterested in upgrading the job of Vice President as a precedent-setting means of assuring better choices in the future, then he should do so to make best use of the man whose talents and proven ability helped make it possible for him to get

through such close congressional scrutiny.

Other Presidents, in recent years, have put their Vice Presidents to work to increasingly greater extents. Presidents Eisenhower and Kennedy—and as I can personally attest, President Johnson—each found new ways for their seconds-in-command to serve their administrations. I would hope the current President would follow and expand upon this precedent.

The selection of possible tasks for a Vice President is broad. As we all are aware, Mr. FORD has a very strong background in the legislative branch and its processes. He should be put to work as Presidential liaison with the Congress, a role that has needed strengthening lately and for which Mr. FORD is eminently qualified.

He could serve numerous other functions. I have long maintained, for example, that the Vice President should replace the President as chairman of the Domestic Council. He could serve as the link between the White House and the State and local governments. He could deal with the Federal departments and agencies. He could perform foreign policy duties abroad, and represent the President in public appearances at home.

He occupies a unique position, ranking higher than Cabinet officers while sitting as a Member of the Cabinet. He can thus perform duties which a Cabinet officer of ordinary rank could or should not undertake. These might include administrative, political, and ceremonial tasks.

He can, by getting around the country and dealing with State and local officials and citizens, serve the dual function of ombudsman for the public and political antenna for the President. He can help the people cut through the red tape of Federal bureaucracy, while picking up the mood of the people and relaying what he finds to the President. President Johnson saw fit, when I was his Vice President, to assign me just such a broad-ranging set of responsibilities, and it worked well.

Giving the Vice President a sizeable share of the burden that might otherwise fall upon the shoulders of the President could hold an added advantage—it could reduce the need for the kind of burgeoning bureaucracy we have seen of late in the Executive Office of the President.

Mr. President, I suggest that if we had a longer history of Chief Executives giving major shares of responsibility and authority to the Vice President, there might have been less of a tendency to fall into the troubles that have recently plagued the Vice-Presidency.

But, Mr. President, no matter how prestigious the office of Vice President might be made, nor how seriously we take the task of filling it, the process by which the parties select nominees for the second place on the ticket still needs improvement. I believe the DNC Vice-Presidential Selection Commission has produced a workable and reasonable reform in the selection system.

It is not dramatic. It is not radical. But it does what we viewed as our basic job—to provide the Presidential nominee and delegates to the National Convention with adequate time and maneuvering room, and greater accessibility to information about prospective nominees, so they might choose Vice-Presidential candidates on the basis of their qualifications for the job and their ability to take over as President if that sudden and profoundly serious situation arises.

We have attempted, Mr. President—and, I believe, we have succeeded—to produce a selection system that would serve the best interests not just of the Democratic Party, but of the Nation. I commend the result of the Commission's work to the opposition party, and offer it as an example for its leaders to follow. We have compiled a complete record of our work, including transcripts of four hearings and of the meetings of the commission and its executive committee, and hundreds of written comments. These are available through the DNC for use by scholars, politicians, and others interested in the subject.

The opposition party is, of course, also welcome to study these documents, which we on the commission believe make up the most comprehensive single collection of materials yet assembled on the subject of Vice Presidential selection.

Our recommendations, which have been submitted to the DNC to consider during the coming year, are based on several underlying principles and assumptions. We assumed first, that the old system was not the worst of all systems. We have not assumed that the whole selection process was a failure. After all, it gave us Vice Presidents Theodore Roosevelt, Harry Truman and Lyndon Johnson, who proved to be fully fit to succeed to the Presidency when called upon.

Another underlying principle is that we wanted a system that would produce winning candidates. We have had some people in American politics lately who would rather lose than win, because it was "the right thing to do." They have a martyr complex. They think that if they have put up the "right" candidate, even though he loses, they have done their job. They consider the nomination to be all-important, forgetting about the election.

But the important thing is winning the election. We on the Commission have sought to devise a system that permits that principle to operate—a system that permits selection of winning nominees.

The Presidential nominee will want a running mate with whom he is compatible, who would not cause him any trouble, and hopefully who can add another 10 percent or so to the vote returns. Our proposals attempt to limit the chance of the Vice-Presidential nominee being a liability, and enhance the chances that he will be an asset.

Some further principles underlying our recommendations include the belief that the national convention is the principal decisionmaking body in choosing nominees for President and Vice President; that the Presidential nominee also must have a significant role in choosing his running mate; but that any citizen should have the right to seek the vice Presidential nomination, regardless of the Presidential nominee's preference.

In addition, we concluded that time and timing are essential to choosing the best-qualified Vice-Presidential nominee who also best enhances the strength off the ticket; that, if given enough time, facts also must be readily available to the Presidential nominee in making his choice or choices for presentation to the convention; and that despite our wishes for harmony and tranquillity, nominating conventions are volatile creatures which can occasionally become explosive. To cope with this final consideration, we have offered a safety-valve mechanism for use in emergencies, an optional Vice-Presidential selection system to be employed when the Presidential nominee and the national convention agree that a cooling-off period is needed to put the pieces together before choosing a Vice-Presidential nominee.

Based on the foregoing principles and assumptions, the commission has proposed:

First, appointment by May 1 preceding the national convention, of an Advisory Committee on the Vice-Presidential Nomination, consisting of 7 to 10 persons chosen by the chairman of the Democratic National Committee, with consent of the executive committee.

The members shall be Democrats of high stature, knowledge, and respect, who are neither candidates for the Presidential or Vice-Presidential nominations, nor actively working in the campaigns of candidates for those positions. But the committee shall be chosen after consultation with all candidates for the party's nominations.

The committee's function shall be to provide the Presidential nominee with factual infomation on potential nominees for Vice President. The committee will rely on publicly available information and on material voluntarily supplied by candidates for the Vice-Presidential nomination. Such facts shall be gathered concerning any person the committee considers to be widely mentioned as a likely candidate for the Vice-Presidential nomination, or whose name is suggested by a Presidential candidate.

But the committee shall make no recommendation on a Vice-Presidential nominee.

The advisory committee would have no investigative or undercover role. The party has no legal authority to confer such a role even if it chose to, and we on the Commission were not persuaded such activities are needed.

When you run for public office, your opposition is going to investigate you There is no greater investigative operation in the world than the combined efforts of your opposition. And what they can not find out, it would take a grand jury to uncover. It is my belief that recent events involving Vice-Presidential choices have represented exceptional circumstances. Ordinarily, such things do not happen.

Second, extension of the convention calendar to 5 days, rather than 4 as in the past, with selection of the Vice-Presidential nominee scheduled for the final day. This allows 48 hours—rather than

12 to 24 hours as in the past—between the selections of the Presidential nominee and of his running mate.

Third, provision of an optional system by which the Presidential nominee and the convention could agree to postpone selection of a Vice-Presidential nominee for 14 to 21 days.

The decision in that case would fall to the Democratic National Committee, which would meet as a new "Vice-Presidential Nominating Convocation" to select the nominee 2 to 3 weeks following the convention.

This convocation would be, literally, a "mini-convention" in which the voting strength of each state has in proportion to other states will be the same as at the national convention. The reason is that the Democratic National Committee in 1976 will be restructured under new rules for national committee representation, to reflect the makeup of the convention.

Fourth. The provision that, while the Presidential nominee shall have the privilege at any time, either at the national convention or at the Vice-Presidential Nominating Convocation of the Democratic National Committee, to place his Vice-Presidential candidate choice or choices in nomination, any person shall have the privilege of seeking the nomination. The name of any candidate shall be placed in nomination for the party's endorsement if that person has received petition support from at least 10 percent of the assembled delegates, representing elements of at least three States, at either the national convention or nominating convocation.

Mr. President, I call the attention of my colleagues to an earlier statement in the RECORD on November 11, 1973, in which I presented the preliminary recommendation of the executive committee of the Vice-Presidential Selection Commission. I now ask unanimous consent to have the official report of the full commission printed in the RECORD.

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

OFFICIAL REPORT OF THE VICE-PRESIDENTIAL SELECTION COMMISSION OF THE DEMOCRATIC PARTY

To assure the continuity of good and responsible government for the United States;

To provide procedures which best assure that the Democratic Party nominates its Vice Presidential candidate after full deliberation, investigation, and comprehensive consultation; and

In the hope that any person nominated for the position of Vice President of the United States by the Democratic Party will be an individual of the highest probity, with broad experience and capable of assuming and executing the Office of the Presidency in the best interests of the people of our Nation;

The Commission on Vice Presidential Selection, pursuant to the August 9, 1972 mandate of the Democratic National Committee hereby submits its recommendations to the Democratic National Committee and to the Rules Committee of the 1976 Democratic National Convention.

By May 1 preceding the Convention the Chairman of the Democratic National Committee with the consent of the Executive Committee shall appoint an Advisory Committee on the Vice-Presidential Nomination.

The Committee shall consist of not less than 7 or more than 10 members whose judgment, by virtue of their personal stature and their wide knowledge of national and state Democratic leadership in all regions of the country, will have the trust and confidence of the Convention and of the Democratic Presidential nominee.

Members of the Committee shall be selected after consultation with all candidates seeking the Democratic Presidential or Vice Presidential nomination but shall not themselves be candidates for or actively engaged in the campaign of any candidate for the Presidential or Vice Presidential nomination.

The function of the Advisory Committee and the staff assigned to it shall be to make available to the Presidential nominee factual information concerning persons whom he may wish to recommend to the convention for the Vice-Presidential nomination.

For this purpose, the committee shall collect such objective factual information as may be publicly available or as may be furnished by the persons concerned, on the committee's invitation or on their own motion, concerning any person who in the judgment of the committee has been widely mentioned as a possible Vice-Presidential nominee, or whose name is suggested for the committee by a candidate for the Presidential nominee, but it shall not make any recommendation of a Vice-Presidential nominee.

To give the Party's Presidential nominee additional time to review qualifications and credentials of possible vice presidential running mates, the Democratic National Convention, which by custom has met for four days every four years, shall meet in 1976 for five days, under the following provisions:

1. The Convention will convene on the first day for the purpose of welcoming remarks, a keynote address, and the resolution of all Credentials disputes.

2. A National Platform shall be adopted at the second Session of the Democratic National Convention.

3. A Presidential nominee shall be selected at the third Session of the National Convention.

4. The full Report of the Rules Committee of the National Convention, including the permanent Charter of the Democratic Party of the United States adopted by the 1974 Conference on Party Organization and Policy, shall be presented to the Convention on the fourth day, to be debated fully, amended if necessary, and officially adopted by the Convention.

5. The last session of the Democratic National Convention shall include:

(i) The Roll Call for, and nomination of, a Vice Presidential Candidate of the Democratic Party, unless the Presidential nominee, within 24 hours of his selection, shall recommend and the Democratic National Convention, after an opportunity for discussion, has voted to delegate such responsibility to the "Vice Presidential Nominating Convocation of the Democratic National Committee," in accordance with the following procedure: The "Vice Presidential Nominating Convocation of the Democratic National Committee" shall meet not later than twenty-one (21) days following the close of the Democratic National Convention, at a time not coinciding with the National Convention of any other major political Party, to select the Party's vice presidential nominee, pursuant to procedures set forth in Article VII of the Codified Rules of the Democratic National Committee, which reads:

"(a) The delegation from each State, Territory or District shall be entitled to the same number of votes as that State, Territory or District was entitled to cast at the National Convention."

"(b) The number of votes to be cast by each member present and voting shall be the same proportion of votes allocated to his or her delegation under Subsection (a) of the Section as his or her vote on the Committee is to the total number of votes on the Committee exercised by all members of the delegation from his or her State, Territory or District who are present and voting when the vote is taken."

"(c) Where a vote on the Committee is shared by two or more members of the Committee, it shall, for the purpose of allocating votes for the selection of the vice presidential nominee, be apportioned among those members sharing it who are present and voting."

(ii) The Acceptance Speech(es) of the Nominee(s) of the Democratic Party.

(iii) Adjournment.

No provisions of these rules shall be interpreted to prevent any Democrat to announce and run for the Vice Presidential nomination of the Democratic Party. In addition to any nominee or nominees placed in nomination by the Presidential candidate, any person receiving petition support from at least 10% of assembled delegates representing elements of at least three separate state delegations, whether at the Democratic National Convention or the "Vice Presidential Nominating Convocation of the Democratic National Committee" shall be entitled to have his or her name placed in nomination for the Office of the Vice President of the United States.

S. 1868—PROHIBITION ON THE IMPORTATION OF RHODESIAN CHROME

Mr. McGEE. Mr. President, during the debate on S. 1868 on Tuesday of this week, I was somewhat amused by comments of opponents of efforts to place this country back into compliance with United Nations sanctions against Southern Rhodesia.

It may be harsh of me to use such a term as amused, but I want to be honest in my observations. I was amused by arguments advanced by some Members of this body that somehow we are not bound by the treaty commitments we undertook in 1945 when the Senate, by a vote of 89 to 2, approved the United Nations Participation Act. I was amused because some of the very Senators who apparently have chosen to ignore this treaty commitment were, as I was, our staunchest supporters of the SEATO treaty which served as the basis for our involvement in Indochina. They believed and argued, as I believed and argued, that this Nation had a treaty commitment under SEATO, and to abandon that commitment when times were difficult for this Nation would cast severe doubts within the international community as to our credibility and the trustworthiness of our word under treaty agreements.

In light of my record of support for three administrations in the conduct of our Indochina policy. I believe I am in a quite credible position to criticize the dialog of Tuesday. In my judgment, some in this body are engaging in setting a double standard; that somehow there are some treaty commitments by which we are bound, while we can choose those with which we happen to disagree as the

object of unilateral action detrimental to that agreement. It is a double standard. I would just add that we cannot have it both ways. Our word and trustworthiness as a nation is involved in every international agreement to which we commit ourselves.

I was also concerned over the attitude of some in this body who would argue that the conduct of the Soviet Union in the international community should somehow set the standard for our own conduct. I have heard considerable criticism of the Soviet Union, deservedly so I might add, but this criticism is used as an attempt to justify our own actions. This is quite strange that there are Members of the U.S. Senate who are the most vehement in their expression of contempt for the Soviet Union, while on the other hand choose to single out that country as an excuse for the United States conducting itself in a similar manner in the international community.

The issue is not to what degree any nation adheres to its international commitments or how many treaties any nation choses to adhere. I find this rationalization somewhat distasteful and doing violence to our very heritage, values, and traditions as a nation. I am sure our Founding Fathers, if they were here to witness such a debate, would find it equally distasteful. I do not believe that the Soviet Union, or any other nation for that matter, should set our standard of conduct within the international community or should serve as an excuse for our violation of commitments. Yet, I gathered from the debate of Tuesday there are those in this body who feel otherwise.

I might add that the genius of our Nation has been the continued willingness of its citizens to be our own worst critics. There are some who believe this is reprehensible. I do not believe this characterization is consistent with our ideals or traditions. If we fail to continually scrutinize our actions as a nation, then we will never fail as a nation. We must continually subject ourselves to this exercise in an effort to live up to our own ideals and traditions. Our strength as a nation is not derived from efforts to gloss over where we have failed or to ignore our shortcomings. We engage in hypocrisy when we wrap ourselves in the flag as a justification for our willingness to violate international commitments.

A serious allegation was raised in the debate, one consistently raised throughout the course of consideration of S. 1868, which many opponents of the legislation apparently accepted as fact. I am referring to the allegation that the Russians are buying Rhodesian chrome. This was a claim advanced by Colt Industries, one of the primary lobbyists on behalf of efforts to place us in violation of U.N. sanctions against Rhodesia which was refuted by our own U.S. Geological Survey, our own Government experts, and the United Nations Sanctions Committee. This allegation has been refuted time and time again. The factual evidence is on my side regarding this claim and, I might add, it is not based upon what some industry lobbyist is running around the Hill trying to peddle in an effort to distort the truth.

I would now like to briefly respond to the comments of the distinguished senior Senator from Ohio (Mr. TAFT). Although, I will respond at a later date in greater detail on his remarks, I do want to take this opportunity to challenge some of the assertions he has made. I was amazed at his claim that there is somehow a domination of the Afro-Asian bloc "working as a pawn of the Soviet Union within the United Nations." I would suggest that it might prove useful for the distinguished Senator from Ohio to read the report the disinguished senior Senator from Kansas (Mr. PEARSON) and I submitted to the Senate Foreign Relations Committee on our service as delegates to the 27th General Assembly of the United Nations a year ago. We found that all of the major powers, whether it be the United States or the Soviet Union, to be the objects of criticism from the developing world. This criticism does not emanate from the Afro-Asian bloc alone, but from our closest neighbors as well, Latin America. In this connection, I would like to quote the following from our report:

> It is my recommendation that the U.S. delegation should work on establishing and expanding a rapport with the developing countries before significant or important issues are considered in the various committee and plenary sessions of the U.N. Otherwise, these nations will vote in a block. One way to fragmentize these blocks is to devote extra attention and time to the developing nations. For example, I spent a significant portion of my time with various representatives from these nations. This effort included taking delegations from these nations to lunch, meeting with them at social events, and holding numerous discussions with them in private. As a consequence, a mutual trust and understanding grew out of these contacts which proved to be very productive for the U.S. on the assessments question.
>
> The point is that representatives of the developing nations tire of being pushed into the background while we spend our time with the Canadians, the British, the French, and other industrialized western governments. Thus, it is vitally important to devote increasing attention to working with the developing nations.

In commenting on the issue of international terrorism raised by the distinguished Senator from Ohio, I would urge him to read the hearing record of September 6, 1973, when the African Affairs Subcommittee received testimony on S. 1868. During that hearing we received testimony from the distinguished senior Senator from New York (Mr. JAVITS), who had just returned from an extensive tour of Africa.

The distinguished Senator from New York made the following, very poignant, observation. I quote from page 107 of the hearing record:

> One cannot leave that area without the firm conclusion that there are two deep issues troubling those peoples insofar as the United States is concerned: One is our attitude toward Rhodesia and the other is our attitude toward the Republic of South Africa.

The distinguished Senator went on to note:

> But if I ever was convinced that this measure (S. 1868) is the right one, I am certainly convinced now. Not only do I consider it right, but I consider it indispensable. Lest any body think that these are light matters, Mr. Chairman, I would like to point out that the International Convention on Terrorism involving skyjacking, in my judgment failed to be voted on effectively by the last General Assembly at the U.N. in part because the African nations rejected the approach of a binding international convention. They were motivated by the idea that we were not cooperating with them so why should they cooperate with us, even if it was in terms of limiting the opportunities of terrorists to force governments to help them realize their political aims, even if those governments were third-party governments and the people being assassinated were third-party nationals.

I find the so-called reverse moral arguments offered by opponents of S. 1868 as somewhat disquieting, particularly in light of the fact that the reason the U.S. Congress found itself in the position of reversing itself after 2 years of sanctions violation stemmed from a very sophisticated and concerted lobbying effort on the part of a handful of special interests and the Rhodesian Information Office located here in the Nation's Capital. I am not blind. I receive every publication released through the Rhodesian Information Office and these same arguments are advanced in their official statements.

In concluding this portion of my rebuttal to the remarks of the distinguished senior Senator from Ohio (Mr. TAFT), I would add the following observation. We have bloc voting in the United Nations because the developing nations of the world are fed up that the military and economic powers of the world continue to ride roughshod over them. They are fed up with our continual exploitation of their natural resources with little concern expressed or demonstrated on our part for their aspirations, needs, and beliefs. We are entering a new era in the world and if this Nation is not prepared to recognize the rapidly changing international interrelationships we are dooming ourselves to paying a heavy price for our ignorance and arrogance. I will go into greater detail in the near future. But I would urge my colleagues to open their eyes to the future and not set their feet in the cement of the past.

SENATOR SAXBE'S APPOINTMENT AS ATTORNEY GENERAL

Mr. SPARKMAN. Mr. President, even though we rejoice in the very fine appointment that the President has made in the person of Senator WILLIAM SAXBE of Ohio to be Attorney General of the United States, we all regret to see him leave the Senate.

I first came to know BILL SAXBE when he entered the U.S. Senate. He has a wonderful personality, a good sense of humor, and a dedication to things that are good. He has been an able Senator.

BILL SAXBE and his beautiful and charming wife, Dolly, were members of a delegation to a meeting of the Interparliamentary Union which Mrs. Sparkman and I also attended. They took a very active and impressive part in all of the group's activities.

BILL SAXBE has been recognized for his ability in the law. I am absolutely

confident that he will make a good Attorney General. President Nixon has made a fine choice.

THE ENERGY CRISIS

Mr. JACKSON. Mr. President, our distinguished colleague from Connecticut, Senator RIBICOFF, reported to the Government Operations Committee last November on the results of his personal inquiries into the international aspects of the energy crisis. His conclusions, based on firsthand observations in Europe, can be, in my view, very valuable to the Senate in its consideration of future policy alternatives. Senator RIBICOFF focuses on the need for a cooperative policy among the principal Western nations.

I ask unanimous consent that the text of Senator RIBICOFF's report be printed in the RECORD.

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

PETROPOLITICS AND THE AMERICAN ENERGY SHORTAGE

(Report by Senator Abraham Ribicoff to the Committee on Government Operations, U.S. Senate, November 8, 1973)

LETTER OF TRANSMITTAL

U.S. SENATE,
Washington, D.C., November 5, 1973.

Hon. SAM J. ERVIN, Jr.
Chairman, Government Operations Committee.

DEAR MR. CHAIRMAN: As you know, at the end of August, I traveled abroad on behalf of the Committee to study international and European aspects of the energy problem.

As is my usual practice after such official trips, I am submitting my report of findings and conclusions. I hope they will be of interest to you and other members of the Committee, particularly as we continue our hearings on the creation of a Department of Energy and Natural Resources.

I had delayed submitting my report to you so that it might include observations and comments on the most recent Middle East conflict and its effect on the world energy picture.

With best wishes,
Sincerely,

ABE RIBICOFF.

PETROPOLITICS AND THE AMERICAN ENERGY SHORTAGE

I. INTRODUCTION

There has been growing concern over future energy shortages in the United States, and much talk about an "energy crisis." The feeling is widespread that the Federal Government must organize itself better in order to reconcile the increasing demands for energy with a peaking of domestic oil production, harm to our balance of payments position, and dangerous dependence on Middle East oil.

Since almost every other industrialized nation in the world is more dependent on foreign sources of energy than the United States, and is generally more efficient in using energy, perhaps this country can learn from their experience.

It is also apparent that the world's growing appetite for energy may lead to disastrous competition as Western Europe, Japan, and the United States begin competing for the same finite resources.

In order to find some answers to these problems, I traveled to London and Paris last August on behalf of the Government Operations Committee. I had a number of wide-ranging discussions in Europe with the people dealing directly with these problems—with the heads of foreign oil companies, with foreign envoys to the Organization of Economic Cooperation and Development (OECD), with British and French government officials, and with American personnel abroad.

Before my trip the Subcommittee on Reorganization, Research and International Organizations, which I chair, had already begun hearings on the proposal to create a new Department of Energy and Natural Resources, S. 2135. Further hearings will be held on this important legislation, and I feel that some of the issues I have raised in this report must be considered if our nation is to develop a coherent energy policy.

The following is a listing of some of the people I had discussions with in London and Paris:

London

F. R. Peter Vinter, CB, Deputy Secretary, Department of Trade and Industry.

George S. Whitehead, Assistant Under Secretary, Foreign and Commonwealth Office.

Brian C. Cubbon, Deputy Secretary, Cabinet Office.

H. Bryan Thomas, Director, Corporate Development, Burmah Oil Trading Ltd.

Frank McFadzean, Chairman, Shell International.

Geoffrey Chandler, Coordinator, Trade Relations, Shell; Thomas Greene, Head, North American Desk, Shell.

Paris

Yves Girard, Deputy to the Secretary General for Energy, French Ministry of Industrial Development.

Jean-Louis Beffa, Direction des caburants, Ministry of Industry.

Frederick Atkinson, Assistant Secretary General, Department of Economic and Statistical Affairs, OECD.

Emilio Gerelli, Deputy Director, Environment Directorate, OECD.

Dr. Wolfgang Haussermann, Nuclear Energy Agency, OECD.

Burton Reinfrank, Secretary of Oil Committee, Industry and Energy Directorate, OECD.

Robert Ovart, Secretary of Energy Committee, Industry and Energy Directorate, OECD.

II. THE LEGISLATIVE CONTEXT

As a Senator from New England, problems associated with energy shortages were not new to me. For a number of years the residents of my home State of Connecticut and citizens in other parts of New England had been paying premium prices for No. 2 fuel oil to heat their homes. Independent dealers, who supplied 25 percent of all the gasoline and 40 percent of all the heating oil to Connecticut residents had their own special problems.

During the months preceding my trip, I had strongly advocated a variety of legislative proposals and had taken other actions to ensure the continued flow of petroleum products to New England at the lowest possible prices to consumers.

In January I had cosponsored the New England States Fuel Oil Act to permit unlimited imports of No. 2 home heating oil. Later I sought and received assurance from the Administration that its new Oil Policy Committee would establish a special subcommittee to deal with Connecticut and New England's particular problems.

In February, I conducted a hearing on Reorganization Plan No. 1 of 1973, which transferred the chairmanship of the Oil Policy Committee from the Director of the Office of Emergency Planning to the Deputy Secretary of the Treasury. At the hearing, the Deputy Secretary agreed to establish a New England Regional Advisory Committee which would include independent fuel oil dealers so that their views could be considered in the deliberations of the committee.

In March I had joined in introducing Senate Resolution 74, calling on President Nixon to begin negotiations with the other major oil consuming nations leading to bargaining on a government-to-government basis with oil producing states and their own unified entity—the Organization of Petroleum Exporting Countries (OPEC).

In May I had cosponsored legislation providing for continued sales by major oil companies of gasoline to independent gasoline retailers at the same percentage levels as in a previous base period, and to assure equitable distribution of petroleum products to all regions of the country.

Along with a number of other Senators, I had also signed a letter to President Nixon urging him to use the authority granted him by the Congress in the Economic Stabilization Act to allocate crude and petroleum products, so that healthy competition of the small independent refiners and gasoline marketers would not be eliminated.

On June 5, the Senate passed S. 1570, the Emergency Fuel Allocation Act of 1973. This bill included an amendment I had offered and which has been approved on the floor, to establish an Office of Emergency Fuel Association. This measure was designed to ensure that municipal, county and state governments would be able to get enough gasoline and fuel oil to provide essential services to their citizens.

The Senate again passed a mandatory fuel allocation bill later in the session in an effort to spur Administration action.

III. THE AMERICAN ENERGY APPETITE

The American energy appetite has no equal anywhere in the world. Our energy consumption doubled between 1950 and 1970, and at the present growth rate, this will double again in about twelve years. By 1985 the United States will have used more energy than was used in all previous history. With six percent of the world's population, we today consume about one-third of all the world's energy and over one-half of all the gasoline produced.

American industry has for years burned up more energy as a method of increasing productivity. This has not been without its ironies. For example, we have even made our automobile engines larger to support new anti-pollution devices. The average American-made automobile gets 13.5 miles to the gallon—or almost double the gasoline required to move its European counterpart the same distance. This same automobile delivers only 10 percent of the energy it consumes to its rear wheels as power. Or another example, European industrial operations usually operate with an energy consumption of 10 to 20 percent or less than that required to do the same job as American industry.

What has happened since World War II is that the United States has become hooked on cheap oil—with the oil companies acting as pushers. The rest of the world tolerated this situation as long as the United States was self-sufficient in energy resources and was using its own raw materials. Now, because of our growing dependence on oil, we are being forced to purchase more of it overseas, competing directly with Europe and Japan. This has raised serious questions about the value of the American dollar, the impact on our national security, and the role of the United States as a world power.

The most outstanding feature of our nation's energy consumption pattern is our reliance on oil. Today roughly 45 percent of the energy consumed in this country comes from oil, and 32 percent from natural gas, largely a byproduct of oil production. Of the remainder, 18 percent is from coal, 4 percent from hydroelectric power, and only .5 percent from nuclear plants.

Our own domestic production of oil is now averaging about 11 million barrels per day, out of a total of more than 17 million barrels consumed. If current demand keeps climbing at the same rate, our needs in 1980 will be 25 million barrels per day—with close to half of it coming from abroad.

The following table shows where the United States gets its crude oil and oil products today:

TABLE I.—*The sources of our oil as of June 30, 1973 (crude oil and products)*

	Percent
Domestic production	63.40
Imports:	
Canada	8.15
Latin America (principally Venezuela, also Mexico and the Caribbean)	14.03
West Africa (principally Nigeria, also Angola and Ghana)	2.86
Arab countries (Algeria, Egypt, Libya, Tunisia, Abu Dhabi, Irag, Bahrein, Kuwait, Saudi Arabia, and others)	5.44
Other countries (including Iran)	3.92
Other sources (including reserves)	2.20

TABLE II.—U.S. OIL CONSUMPTION

	Millions of barrels per day	Percent of total oil consumption
Actual:		
1970	14.7	
1971	15.1	
1972	16.3	
1973 (estimated)	18.0	
Projected:		
1975	21.0	
1980	22-25.0	
1985	25-27.0	

U.S. OIL IMPORTS

Actual:		
1970	3.4	23
1971	3.7	25
1972	4.6	28
1973 (estimated)	6.0	33
Projected:		
1975	7.5	36
1980	9-12.5	36-57
1985	13-15.0	48-60

IV. PETROPOLITICS—THE NEW GAME OF NATIONS

For a number of years I have emphasized that ecopolitics is replacing geopolitics as the prime mover in the affairs of nations. European integration through the Common Market and the Soviet desire for American trade and technology bear out this contention. However, with the industrialized nations of the world actively competing for the same petroleum resources, and with the exporting nations using oil to amass unprecedented wealth and political power, petropolitics is beginning to dominate both ecopolitics and geopolitics.

This became most apparent during the most recent Middle East conflict. Not only was the withholding of Arab oil used as a weapon, but the governments of Western Europe convinced themselves that because of their dependence on Arab oil, they had to pursue policies which undermined the very basis of NATO.

When the Mirage fighter bombers France sold to Libya were used in combat, when England placed an embargo on the shipment of spare tank parts to Israel, and when Germany refused to permit its territory or airspace to be used by American planes airlifting needed military supplies to Israel—we not only have a failure of leadership, but petropolitics threatening to rupture the North Atlantic Alliance.

If the United States is to remain a world power, it must never permit itself to be in a position where either its foreign policy or moral choices are dictated by a dependence on foreign oil. We should all be thankful that this country has not yet reached the stage where vital American interests are sacrificed because of dependence on Arab oil—or Soviet natural gas for that matter.

During my trip I had discussed the threat of Arab oil stoppages to the economies of Western Europe, and it was apparent to me that while some planning for such emergencies has been done at the working level, the political will to avoid being blackmailed was lacking among most European nations, notably France.

Last year Western Europe used oil for about 63 percent of its total energy consumption as the following table shows:

TABLE III.—CONSUMPTION OF VARIOUS FORMS OF ENERGY AS A PERCENT OF TOTAL CONSUMPTION (1972)

	United Kingdom	France	Total Western Europe
Oil	51.8	70.5	63.4
Natural gas	12.6	7.6	9.8
Solid fuels	34.3	18.8	23.6
Hydroelectric	.2	2.7	2.8
Nuclear	1.1	.4	.4
Total	100.0	100.0	100.0

Two-thirds of this came from the Middle East with most of the rest coming from Africa. Three countries—Libya, Saudi Arabia, and Kuwait—provided more than one-half of Western Europe's supplies.

TABLE IV—IMPORTS OF CRUDE OIL BY REGION OF ORIGIN (1972)

	United Kingdom	France
Middle East	66.2	66.3
Africa	25.9	30.7
Western Hemisphere	5.2	1.5
Communist	.2	1.5
Other	2.5	0
Total	100.0	100.0

V. GREAT BRITAIN—A START IN THE RIGHT DIRECTION

My talks in Britain convinced me that the British are ahead of both their European neighbors and ourselves in planning for the future. With hardly any petroleum resources of its own, Britain has always been heavily reliant on imports. Fortunately, Britain still has significant stocks of coal and a well organized nuclear energy program. Long the dominant power in the oil-rich Persian Gulf, Britain today must avoid having this same region place a stranglehold on its economy.

Shortly after I left England, Mr. Peter Walker, Secretary of State for Trade and Industry, whom I have met with on a number of occasions, announced a number of steps that would put the United Kingdom in a better position "than almost any other major industrial country to meet her energy needs."

These were the measures he outlined:

1. Legislation to enable the coal industry to keep open pits that would otherwise be uneconomic;

2. A major reorganization of the nuclear industry creating one strong commercially oriented nuclear construction company and providing the government with a powerful Nuclear Advisory Board (one-tenth of the United Kingdom's electricity is already generated from nuclear stations);

3. Development of the sodium-cooled fast nuclear reactor, with the first commercial contracts scheduled for 1976;

4. Joint development with the Germans and Dutch for the development of the centrifuge enrichment process to achieve major breakthroughs in this sphere of nuclear power in the next 20 years; and

5. Development of oil and gas resources in surrounding oceans. (The first off-shore oil will be extracted next year and production is estimated to reach between 70 and 100 million tons by 1980.)

As the oil resources in the North Sea are developed over the next several years, Western Europe's oil production will increase substantially, particularly in Denmark, the United Kingdom and Norway. The problem, of course, is that their own increasing rates of consumption—while not as high as ours—will not enable them to change their heavy dependence on outside sources in the near future.

The British recognize the waste inherent in the duplication of research throughout the world. Those Britons I spoke to all demonstrated a willingness to collaborate, not only with Britain's Common Market partners, but with Japan and the United States.

VI. INTERNATIONAL COOPERATION—STILL AT THE BLUEPRINT STAGE

Last June, the 23-nation Organization for Economic Cooperation and Development (OECD) met to discuss how to effectively cooperate to manage the world energy problem.

At that time the United States proposed, and the standing OECD Oil Committee accepted, a suggestion that an informal working group be established to develop and evaluate various issues and options of an OECD-wide agreement to share oil in times of emergency. The U.S. delegation also proposed expanded international cooperation in research and development to increase energy supplies and to diversify resources.

I fear, however, that based upon the lack of success of a similar high level group set up in 1971, to work on trade problems, this latest OECD effort will not achieve real results unless the participating nations display a much greater willingness to cooperate.

Diplomats are usually loathe to point the finger of blame at any one nation in particular. But on the basis of my talks, I was left with the definite impression that the major obstacle to emergency sharing proposals, and for greater coordination in bargaining with the OPEC countries, was the attitude of the French government. It is now apparent that instead of seeking ways to cooperate with the United States and other oil consuming nations, the French are relying on their strongly pro-Arab foreign policy to ensure their own access to Middle East oil.

One of the chief topics of discussion during my visit was the unilateral, but not unexpected, Libyan take-over of a controlling interest in the operations of the five major Western oil companies producing and marketing Libyan oil. The companies affected expressed their determination to pursue the expropriated oil in the courts throughout the world. This reliance on international law is indeed praiseworthy. But if more toughness had been displayed during the early stages of negotiations with Libya over crude oil prices, the oil exporting nations would not have their clients both literally and figuratively over a barrel today—with oil consumers footing the bill.

It is true that some constructive steps have already been taken. Each OECD member is supposed to have a fuel-rationing system ready for immediate implementation, if needed. But only England and France had complete ration systems ready to go, plus 65-day reserve stocks of oil. By comparison, the United States had only a few days supply of oil, and this is made up of what is in the pipeline.

The OECD has formally acknowledged the need for a comprehensive energy policy for

its members. This would cover such issues as European dependency upon imported oil, U.S. competition for oil sources and products, and the impact of the United States-Israeli relationships upon Arab oil sources. However, during the latest crisis, the OECD Oil Committee could not agree on any action to counter the Arab oil embargo. Nor could the Common Market countries agree on how to assist Holland, a special target. Such actions as blocking exports or freezing Arab accounts were ruled out.

If concerted political action is not possible at this time, it would seem that, at the least, the OECD, composed of 23 industrialized nations, including the U.S., Japan, and Canada, could be a focal point for increased cooperation in research and development projects. There is no doubt that the United States could already learn much from foreign processes which put a premium on conserving scarce energy supplies.

While many are now aware of our nation's inefficiency in the use of energy, it is less well known that in converting energy to power, we do so much more wastefully than most other industrial countries. While exact figures on this are lacking, it is reliably estimated that in the conversion process we waste about one-half of all the energy we consume. On the other hand, a country like Sweden loses only 40 percent. Common research and development projects and sharing of technology could only be to the benefit of all.

While I was in Paris, I also looked into the results of a UNESCO conference on solar energy that had recently been held there. There is no doubt that some day solar and nuclear energy will provide almost all of the world's power. But, realistically, the widespread use of solar power is not for this century. This is not to say that more should be done, particularly in the southern one-third of this country where the development of residential solar units could heat homes, provide hot water and possibly, air conditioning. Working units are already in use abroad, and are more technically advanced than any currently manufactured in the United States. If used on a large scale, residential applications could result in substantial savings of conventional fuels. There is no shortage of "raw material" here, and even less likelihood of an embargo!

VII. OIL AND THE WORLD ECONOMY

In speaking to foreign oil company officials about the use of Arab oil for political purposes, I found surprising unanimity in the view that up until then, the Arab-Israeli conflict had not been a major factor in the maneuverings by the oil exporting states. The view was expressed that the demands for greater control and higher prices for crude oil were dictated by economic rather than political considerations. I was told of the growing feeling among many oil producers that their oil was worth more in the ground than it is by selling it during a period of inflation.

When Saudi Arabia talked of production cutbacks, this was dictated more by economics than politics. One notable exception to this "oil bank" in the ground thinking is Iran, which is producing as much oil as it can—some 6 million barrels a day. The Shah has stated that Iran wants maximum oil revenues now in order to modernize and develop its society.

There is no doubt that the other Middle East oil nations could do more to assist their own peoples. Unfortunately, the bulk of their excess oil revenues is not used in this way. In the midst of the last run on the dollar, the Senate Subcommittee on International Trade, which I chair, sought answers from top government officials as to which nations and corporations benefited from the attack on the dollar. While no definitive analysis was forthcoming, the movement of Arab oil money during this crisis was acknowledged, as well as Arab purchases of gold. However, European bankers estimated that between one-fifth and one-third of the dollars exchanged for German marks came from oil money. The potential for serious damage to the international monetary system by shifts of these funds is enormous.

The United States in 1972 had a $4 billion deficit in its balance of payments resulting from energy imports. We will spend about $7.5 billion for oil imports this year alone. This figure could reach $17 billion by 1980 if current trends continue. This year alone, Saudi Arabia will receive $6 billion in oil revenues. Saudi Arabia, Kuwait and the Persian Gulf Sheikdoms over the next 12 years will collect the staggering total of $227 billion—and this is a low figure based on an estimate before recent price hikes.

By 1985 it is forecast that Arab reserves of gold and foreign exchanges will rise to over $100 billion. How and where this money is spent poses a challenge to all industrialized nations and to the economic health of the entire world community.

There are no doubt limits as to how much money can be spent in places like Kuwait, Abu Dabhi and Qatar. The law of diminishing returns undoubtedly applies to Cadillacs also. The idea has been advanced that some of these billions could be used to improve the plight of millions of impoverished Moslems. Such proposals have not exactly been met with wild enthusiasm by the Arab oil exporters. It is more likely that much of this money will be spent in replacing the $3 billion worth of sophisticated Soviet arms destroyed in the latest conflict. Some of these funds will also probably be invested in Europe and the United States—raising the prospect of entire American industries being bought up.

VIII. CONCLUSIONS

If we are to escape from a dangerous dependence on foreign-source oil, there are three broad goals which must be pursued simultaneously.

We must lower our demand curve of effective conservation measures.

We must cooperate with other industrialized nations on common energy problems.

We must increase domestic energy production by the application of new technology and the acceleration of proven methods.

A. Conservation

With regard to the first objective, a recent Treasury Department study outlined eight emergency conservation measures that would save two million barrels of oil a day. This figure represents 12 percent of present U.S. consumption, and is, incidentally, about twice as much as we now import from Arab countries.

These are the measures outlined:

1. Reducing speed limits to 50 miles per hour for passenger cars—150,000 barrels a day would be saved;

2. Increasing load factors on commercial aircraft from 50 percent to 70 percent by consolidating and reducing flights—80,000 barrels a day saved;

3. Setting home thermostats two degrees lower than average—50,000 barrels a day saved;

4. Conservation measures in industry—50,000 barrels a day saved;

5. Limiting hot water laundering of clothes—300,000 barrels a day saved;

6. Mandatory car tune-ups every six months—200,000 barrels a day saved;

7. Conservation measures in commercial buildings—200,000 barrels a day saved;

8. Increasing car pools for job commuting—from 1.3 average to 2.3 average per car—200,000 barrels a day saved.

If by measures such as these we can keep the nation's growth rate of energy consumption to around 3 percent instead of the current 4½ percent annual increase, we can begin to escape from the energy crunch. Realistically, we cannot do away with all oil imports by 1985—but we should be able to limit these imports to around 10 percent of our total requirements—or about 5 million barrels a day.

An earlier report issued by the Office of Emergency Preparedness said that by employing even more stringent measures the country could reduce its energy demand by the equivalent of 7.3 million barrels of oil a day by 1980. This would save an estimated $10.7 billion in outlays for imported oil, thus benefiting its balance of payments problems as well.

Energy conservation is an idea that can be sold to the American people because it is not only patriotic—it saves money. With the cost of fuel and electricity already climbing, the incentives to conserve are certainly here. But this will take more than TV commercials sponsored by the major oil companies. The federal government must show the way by example, and an undue burden must not be put on the individual consumer. Our industries account for a third of the energy consumed and they must also do their share.

Already a number of legislative proposals have been made which have my own support and point the way. S. 2176, introduced by Senator Jackson, calls for a national fuels and energy conservation policy and the establishment of an Office of Energy Conservation. The bill calls for new building standards and codes, disclosure of the efficiency of electrical appliances, conservation by public utilities and a study of motor vehicles.

This is a needed start to conserve energy. I am confident that with the proper leadership, the American public, industry and labor will all cooperate to this end.

B. International cooperation

The success of the OPEC nations in forcing Western oil companies to meet their demands with regard to price, ownership, control and participation in down stream activities is largely due to the inequality of the two sides. It is not in the interest of the United States or any other nation to leave such important decisions up to the oil companies alone. This is more of a problem for the United States, since both the major French and British oil companies have substantial governmental participation. Today, the major oil companies are little more than tax collectors for the oil exporting nations, with limited bargaining power and even less disposition to stand up to OPEC.

The United States must seek to convince Europe and Japan of the dire need for much closer cooperation and coordination in all aspects of energy policy—monetary, investment, negotiation and research and development.

French reluctance over an emergency sharing program, or Japanese efforts to outbid the others for Persian Gulf oil, at best contributes to political blackmail and higher oil prices. At worst, such an attitude can create international economic chaos, and an Arab stranglehold on the West—as the Soviet Union looks on.

If the Western nations and Japan were to present a unified front in dealing with the Arab states, we would be surprised at their sudden reasonableness. After all, the United States and Europe still hold important cards—and do export essential manufactured goods, foodstuffs, and technology to the Arab states.

While Soviet machinations in the Middle East could undercut a firm Western position to some extent it is inconceivable that the Arab oil producing nations, most of whom are still conservative and traditional, would not resist a closer Soviet embrace. If the oil consuming nations begin with the premise that they are ready for hard bargaining, but will not be blackmailed, and if they can first agree among themselves on strategy and

goals, temporary agreement, at least, could be worked out.

The United States, with its vast economic power and relative energy independence, must take the lead here. Surely the sad experience of Western disarray during the latest Middle East conflict should provide the impetus for a high level, concerted effort.

What we need is some very plain talk by the leaders of this country both to our European allies and to the Arab oil countries who are waging economic warfare against us. Our NATO partners should be made aware of the responsibilities they have to the United States and to the protection of NATO's southern flank. It is reasonable to ask how long the U.S. can be expected to shoulder the lion's share of the defense burden of Western Europe if at the first sign of Arab pressure, the Europeans fall over themselves to submit to blackmail.

The Arab oil producers should be reminded that economic boycotts are two-edged weapons and that the U.S. is prepared to take the actions necessary to protect itself. They should also be informed that the American people do not like being intimidated, and that the U.S. will take the conservation steps necessary to ride out the present situation while planning for greater future self-sufficiency.

This kind of message will be understood—and respected.

C. Alternative sources of energy

In examining alternative sources it is prudent to first look at areas where the requisite technology already exists.

It is also necessary to take a look at our resource base. Our nation's supplies of fossil fuels are still far from exhausted, and in this regard, we are much more fortunate than Europe or Japan. In fact, U.S. coal and oil shale deposits are larger than the world's total oil reserves.

For example:

The U.S. has an estimated 385 billion barrels of oil that are not yet part of proven reserves or presently recoverable. The amount is almost equal to all the oil discovered in the country up to 1971.

The country has 1.8 trillion potential barrels of crude shale oil in oil shale deposits in the Western states.

The U.S. has 1,178 trillion cubic feet of ultimately discoverable natural gas in its overall energy resource base—a little less than double all the natural gas discovered until 1971.

The U.S. Geological Survey estimates the Nation's total coal resources at 3.2 trillion tons, with 150 billion tons presently recoverable, enough for almost 200 years.

The U.S. has 1.6 million tons of mineable uranium, 700,000 tons mineable at costs low enough to assure cumulative requirements through 1985.

The caveat here is that a good part of the above potential sources are not readily available now.

Although the nuclear age is almost thirty years old, the most we can expect from nuclear power by 1985 is about 10 percent of our Nation's total energy consumption.

The present generation of reactors depends upon nuclear fission to generate heat to produce steam. Almost all of the 30 reactors now in operation and the 59 under construction are Light Water Reactors. Four basic problems are associated with their use—radioactivity, thermal pollution, plant safety and radioactive wastes.

Already, the feasibility of locating new nuclear plants underground has been proven in Sweden, and the United States should begin to think along these lines if the development of nuclear power plants is to continue in an orderly, safe manner.

Even if these serious environmental problems can be overcome by new technologies, it still takes more than eight years to build a nuclear power plant—and some $800 million. The real promise of nuclear energy lies beyond the next decade and is in the development of the breeder reactor which produces its own fuel, and ultimately, in nuclear fusion.

Our supplies of natural gas are rapidly being depleted, with only a dozen years of proven reserves on hand. This source can only be counted on for about 15 percent of our total consumption in 1985.

Oil from shale will become more important in the next few years, and there are huge reserves in the western United States, notably in Colorado, Utah and Wyoming. But aside from serious waste disposal and water restriction problems, cost is still a factor along with the development of new methods of mining and extraction.

The development of solar energy to produce electricity is technically feasible today, but the cost is such, and the state of the art so primitive, it is still decades away.

The key then to a realistic energy research and development policy leading to the needed level of self-sufficiency is coal.

In the space age such an old-fashioned solution will surprise many Americans. But greatly increased coal production, along with gasification and liquefaction of coal must be the main element in any effective program. The advantages are obvious. Gas is cleaner, more adaptable, easily transported—and environmentally the most acceptable.

First, more coal should be used to generate electricity. This can happen almost immediately, and while this raises the sulphur problem, there are already in existence foreign processes to remove sulphur from stack gas. For the future there is great hope in the magneto-hydrodynamic (MHD) process of power generation whereby energy from coal is converted directly into electrical energy.

The investment needed to go forward with plans to have coal meet close to half of our energy needs by 1985 would be substantial—some $15 billion by one estimate. But I would rather see this nation make such an investment instead of spending at least this much to buy Middle East oil. In fact, the recent hefty price hikes for crude oil are already making "uneconomical" processes look economical as the price of crude oil from the Persian Gulf approaches $6 a barrel and will undoubtedly go higher.

The Congress has already developed a fair degree of competence in planning energy research projects. The staffs of the Senate Interior Committee and the Joint Atomic Energy Committee have a great deal of "in-house" expertise. Because of this, the Congress has been active legislatively in the energy field.

One notable example is the major research and development bill introduced by Senator Jackson, S. 1283, which I have cosponsored. It seeks to commit this nation to a goal of energy self-sufficiency by 1983 and to back up the ten year commitment with $20 billion. This bill calls for the creation of five quasi-public development corporations to demonstrate energy technologies for shale oil, coal gasification, advanced power cycle development and coal liquefaction.

As I mentioned earlier, I have been chairing hearings with Senator Jackson on the Administration's proposal to create a Department of Energy and Natural Resources. It becomes apparent that before we can reorganize and create new bureaucracies we have to have a national energy policy. Only then we can decide how much we are willing to spend to get there, and how to proceed. We have yet to come to grips with the conflict between greater self-sufficiency in energy and preservation of the environment. The burning of higher sulphur content coal, the development of off-shore oil, the building of deep water ports all raise serious environmental problems.

The easy answer is to abolish all environmental safeguards—or conversely, to maintain them strictly without any modification. The realistic solution is somewhere in between, with greater attention paid to developing technology that can preserve and protect our environment while permitting steady progress toward energy self-sufficiency.

Such a program will truly be a monumental undertaking. It will be difficult from a technical standpoint and complicated in terms of the mix of private and public effort. It is a formidable task—even more imposing perhaps than the Manhattan or Apollo projects. But we really have little choice.

I am convinced that with realistic conservation measures, expended use of coal, orderly development of nuclear power, and creation of a strategic oil reserve, our nation can achieve both minimal dependence on overseas supplies and acceptable rises in energy costs.

How we organize ourselves to maximize our still plentiful natural resources against a backdrop of an unreliable and shrinking oil and gas resources is one of the most crucial problems our nation will face in the next decade.

What we do in the next few weeks and months might well determine the future foreign policy direction of this nation, its rate of economic growth, and the physical well-being of all of its citizens.

If we are to avoid the nightmare of a real energy crisis, it will be up to the Administration and the Congress to make the right decisions now—and it will be up to industry, labor, and the American people to share the burden together for the ultimate benefit of all of us.

THE FEDERAL ENERGY EMERGENCY ADMINISTRATION ACT

Mr. MUSKIE. Mr. President, this week the Senate passed S. 2776, the urgently needed legislation to establish a new Federal Energy Emergency Administration.

This legislation was given careful and expeditious handling by the Committee on Government Operations. I wish particularly to commend the distinguished chairman of the Committee on Government Operations, Mr. ERVIN, and the distinguished senior Senator from Connecticut, Mr. RIBICOFF, for their outstanding leadership in the development of this legislation.

Mr. President, like all Americans, I welcome the administration's effort to bring some order out of the administrative chaos which presently pervades the Federal Government's efforts to deal with the energy crisis. But as a Senator representing a State whose residents may be cruelly affected by fuel shortages this winter, I also recognize that no mode of organization—or reorganization—will alone solve so complex a problem.

As we learned during the energy-scarce years of World War II, programs of this kind worked only with full public support. And for the people to support efforts to combat the energy crisis, they must be told the whole truth about the nature of that crisis. They must be assured that the Government, in its effort to deal with the crisis, will treat everyone equally.

Mr. President, during consideration of S. 2776, the Committee on Government

Operations and the full Senate approved several safeguards to assure that the impact of the energy crisis and Government efforts to combat it will be better known and more fair. Supplied by the administration with a reorganization bill which would have granted considerable powers beyond those necessary to deal with the energy emergency to a new Federal Energy Administration, the committee undertook to tailor this legislation to meet the crisis that is at hand.

First, the committee rewrote this legislation to create a Federal Energy Emergency Administration—a Federal agency to deal specifically with the energy emergency during the next 18 months.

Second, the committee took specific steps to prohibit the President from transferring to the new FEEA programs now operated by other Federal agencies unless both houses of Congress approve. As originally proposed by the administration, this legislation would have granted the President unprecedented authority to transfer existing programs to the FEEA. The committee's action to curb that power represents an important step in the reassertion of congressional prerogative to determine national energy policy.

Third, the committee gave the Administrator of the FEEA subpena powers if necessary to obtain full and complete information as he deems it necessary from the oil companies. And it further provided for public disclosure of significant information that does not involve the trade secrets of the oil companies. There is nothing more essential to our efforts to combat the energy crisis than the power to obtain from the oil companies information about the severity of the emergency—information those companies have thus far refused to supply. The information and disclosure amendments added by the committee are an important step toward obtaining that vital information and provide an important safeguard to assure that the public will be well informed about the state of the crisis and efforts to deal with it.

Fourth, the committee added amendments to insure that State and local governments, which bear major responsibility in implementing emergency energy policies—are involved in a decisionmaking process from which those policies emanate. The committee also added provisions to assure that the FEEA supplies the States and localities with relevant information it possesses and to afford technical assistance to State and local governments in need of help to combat emergency energy problems.

Fifth, the committee required the Administrator of the FEEA to make regular reports about the economic impact of the decision he makes.

Sixth, the committee granted the Chairman and Director of the Cost of Living Council a veto over policies promulgated by the Administrator of the FEEA which would cause a rise in the cost of energy.

All of these amendments added by the Committee on Government Operations were approved by the Senate. They provide important public protection in the process by which the Federal Government combats the energy emergency.

Mr. President, S. 2776, as passed by the Senate, is a well-thought-out and necessary measure. It will allow, for the first time, the administration to concentrate its resources on combating the energy emergency, but, at the same time, it includes necessary safeguards to protect the American people from unwise or secret Government actions. It deserves prompt enactment into law.

ENERGY CRISIS HAS SWEEPING EFFECT ON OUR SOCIETY

Mr. HARTKE. Mr. President, few Americans yet realize how deeply the current energy shortages will affect our society. The crisis is not merely a matter of being restricted in the amount of gas we can buy for our cars, of holding down the temperature in our homes and in our offices, or even of paying higher prices for fuel. Each of these is merely a symptom of a much deeper problem, and each is merely the forerunner of other effects which will soon become apparent.

Recently, I received a letter from a friend of mine who is a new car dealer in Indiana. His letter expresses the sense of concern and frustration which more and more Americans will come to experience in the next several months.

Mr. President, I ask unanimous consent that the text of the letter from John D. Bottorff be printed in the RECORD following my remarks so that my colleagues may get some sense of the depth and extent of the energy crisis in America.

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

JOHN BOTTORFF FORD, INC.,
Seymour, Ind., December 7, 1973.

HON. VANCE HARTKE,
Senate Office Building,
Washington, D.C.

DEAR VANCE: I appreciate your call the other night concerning my letter to you of November 12, 1973.

The situation has become worse since then because of a public panic over the so called "energy crisis". Everyone wants to purchase small cars, but we do not have enough small cars to go around. They want to trade in big cars which we have too many of on both our new and used car lots. This has come about because they are being scared into protecting themselves from a shortage of fuel.

The fact is, too many people who have big families, who travel many miles, and who want luxuries on the small car will not get any better gas mileage, and many times worse gas mileage, than if they had purchased the kind and size of automobile they needed to start with.

Today is Pearl Harbor Day and this past month has been Pearl Harbor Month for the Automobile Dealers. We are being raped by government indecision, by Cabinet members who are all telling a different story to the news media, with each passing day, and by a lack of confidence that the American people have in the present administration. I might add that I personally believe that the whole country is being raped by the major oil companies as they charge higher prices for their product and try to drive the small Independent Oil Companies out of business.

This whole situation is leading to mass bankruptcy by automobile dealers and will spread to every segment of the economy if the Congress does not take control of the situation and start spreading some confidence instead of gloom and dismay.

Your attention to our problem will be appreciated. I am,

Sincerely,

JOHN D. BOTTORFF,
President.

ATTORNEY GENERAL SAXBE

Mr. MATHIAS. Mr. President, it is a happy circumstance that Senator WILLIAM SAXBE has had the preparation that life has given him as he now goes to head the Justice Department as our next Attorney General. His service in the legislature of Ohio, as attorney general of Ohio, as a member of the executive commitee of the National Association of Attorneys General, and in the private practice of law should give him a realistic approach and add a personal dimension to human problems, one which is often lost by people who come to national service and by those who head the great departments of Government. As great as these departments are, I think their ultimate goal should be the problems of individual people and I am hopeful that this is something that Senator SAXBE will bring to the Department of Justice.

Two of the initiatives in which BILL SAXBE has been involved as a U.S. Senator are particularly worth noting again as he goes to the Justice Department. He has sponsored legislation which dealt with the reform of the entire system of justice, beginning with counseling of juveniles who were first beginning to show some backward tendencies and carrying all the way through to badly needed reforms of the corrections and parole systems. Senator SAXBE also cosponsored legislation which dealt with total access to information on the part of all congressional committees that have the jurisdictional right to that information.

During his confirmation hearings, BILL SAXBE indicated that the Kent State grand jury proceedings are going forward and that, as Attorney General, he will not participate further in questions which touch upon those proceedings. I am glad he has determined upon this course.

BILL SAXBE assumes the Attorney Generalship at a very difficult time. The Boston Massacre of October 20, 1973, has left Justice Department morale at a low point. While all eyes have been focused on Watergate issues, I think it is important to remember that Elliot Richardson as Attorney General and William Ruckelshaus as Deputy Attorney General, had begun and were carrying out a number of new programs which held out great hope of reform in many of the problem areas now within the jurisdiction of the Federal Government.

In particular, I am concerned with a number of those projects which were outlined by Mr. Richardson in his letter to Acting Attorney General Bork of November 8, 1973. Under the direction of Elliot Richardson, the Justice Department had begun drafting legislation to provide authorization and limitations on the use of criminal justice information through the computerized information system administered by the FBI and made available to the States through LEAA funding. I hope that this work will be continued and that Congress will soon

have an opportunity to consider the draft Criminal Justice Information Systems and Privacy Act under preparation by the Department of Justice. I think that such legislation should cover all criminal information, including that in State systems; should expedite the inclusion of dispositions with arrest records; should provide citizens with the right of review and the mechanics for purging erroneous information; and should contain criminal penalties for the wrongful dissemination of information.

I think also that the Justice Department's study of the operation of the FBI should be continued and that the end result should be a statutory base for that agency. Such a base would properly bring clear delineation of the authority of the FBI and guidance as to its proper activities.

Finally, under Elliot Richardson, the Justice Department was working with HEW and Presidential Counselor Melvin Laird in an attempt to bring improved Government coordination to the field of juvenile justice. This is an important initiative which needs to be continued in light of the severity of juvenile crime and its implications for the overall crime problem in America.

We all wish BILL SAXBE well as he assumes the crucial office of Attorney General. I think it is important that he employ those traits of character that have been so important in his career to date, independence and candor. Senator SAXBE has indicated a recognition of the need for his participation in the activities of the Government and indicated during his confirmation hearings that he is aware of the necessity for him to have access to every level of the executive branch. Such access is important not only because of the personal qualities of BILL SAXBE, but because, as a former elected Republican officeholder, he will be aware that there is a constituency in this Nation to whom he is responsible. The serious responsibility in our Government which he is now privileged to hold demands that he have the full opportunity to participate.

RECENT EFFORTS BY THE AMERICAN COMMUNITY AND JUNIOR COLLEGES TO ASSIST VIETNAM-ERA VETERANS

Mr. CRANSTON. Mr. President, the American Association of Community and Junior Colleges—AACJC—has provided much important leadership in recent years in improving and making available readjustment programs and benefits to the returning Vietnam-era veteran.

This past year, in particular, the AACJC has sponsored a series of conferences, in a number of cities across the Nation, devoted to the unique readjustment problems of Vietnam-era veterans and the various programs designed to meet these special needs. The veterans cost-of-instruction—VCI—program, which I authored in the Education Amendments of 1972, was a major focus of these conferences.

Mr. President, the VCI program was designed to provide incentives and supporting funds for colleges and universities to recruit actively returning veterans and to establish the kinds of special programs and services necessary to assist many veterans in readjusting to an academic setting.

The special attention directed to VCI at the AACJC conferences offered excellent assistance to many veterans and veterans service officers involved in the establishment of VCI programs at their schools. By bringing together representatives of the Office of Education—which administers the VCI program—the Veterans Administration, and persons with special expertise in the areas of counseling, education, and readjustment programs, and organizational techniques, these conferences allowed those attending to return to their institutions with many new ideas for establishing or strengthening already existing VCI programs.

Mr. President, in addition to the many helpful lectures and seminars scheduled for these conferences, the AACJC also made available their recently published booklet "Veterans on Campus, A Handbook for Programs, Services, Staffing, and Assistance." I believe this is a most useful and noteworthy publication, which I am pleased to call to the attention of my colleagues and the public. "Veterans on Campus" is an information manual that can be of real value to any student veteran or person involved in a program for student veterans. Persons interested in learning more about this publication should contact the American Association of Community and Junior Colleges, at 1 Dupont Circle.

WILLIAM BENTON

Mr. HARTKE. Mr. President, earlier this year, our Nation lost a distinguished American, William Benton. As a vice president of the University of Chicago, an organizer of the Committee for Economic Development, the chairman of Encyclopaedia Britannica, Inc., a U.S. Senator from the State of Connecticut, and later as U.S. representative to UNESCO, William Benton served his country with honor.

I ask unanimous consent that a tribute to William Benton which was published in the University of Chicago Record be printed in the RECORD.

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

MEMORIAL TRIBUTE TO THE HONORABLE WILLIAM BENTON, APRIL 1, 1900, TO MARCH 18, 1973

William Benton was born on April 1, 1900, in Minneapolis, Minnesota.

From 1937 to 1945 he was Vice-President of The University of Chicago. He was named a Trustee in 1946 and a Life Trustee in 1965. In 1942 he helped organize the Committee for Economic Development and in the following year he became published of *Encyclopaedia Britannica*.

In July 1945 William Benton resigned as Vice-President of the University and as the Chairman of Encyclopaedia Britannica, Inc., to become Assistant Secretary of State under Harry S Truman. During his two years in the Truman administration he organized the program which created the "Voice of America" broadcasts. He also led U.S. participation in UNESCO.

In 1949 William Benton was appointed U.S. Senator from Connecticut; the following year he was elected to fill two years of an unexpired term. After leaving the Senate, William Benton returned to the active Chairmanship of Britannica.

In 1963 President John F. Kennedy appointed him U.S. representative to UNESCO with the rank of ambassador.

In 1968 The University of Chicago conferred upon Mr. Benton the first "William Benton Medal for Distinguished Service." This was the citation:

"William Benton, visionary public servant, perceptive student of foreign affairs, staunch supporter of education, discriminating publisher, astute businessman, co-founder of UNESCO and of the Committee for Economic Development, creator of the "Voice of America," whose talents he has shared freely with his fellow men."

This issue of the *Record* contains the tributes which were paid to William Benton at the memorial service which was held at Bond Chapel on June 11, 1973.

MR. EDWARD H. LEVI

This gathering of family, friends, and colleagues held in the University which he served so well reflects the abiding influence of William Benton. We cannot hope in the brief moments we have to encompass the full scope of his life. Each of us has a somewhat different story to tell as, indeed, it would be appropriate for such a gathering. We are bound together by our love and admiration for one unique among us, by the joy of having known one of the great spirits of our time. The incredible diversity of his career broadened the scope and magic of his work, but it reflected at all times the same creativity and enthusiasm, the same courage and intensity of purpose, and, more than that, the same devotion to a set of principles which gave unity and completeness to a life of many patterns.

William Benton was an officer and trustee of this University. "There is something about being a trustee of a college or university. I think it is the highest honor that can be given a man in private life," he said last autumn. Even so, the words "officer and trustee" inadequately measure this relationship. It was from this University that he began the organizing of the Committee on Economic Development; created "The University of Chicago Roundtable" as an instrument of public information on an almost international scale; began the bridging of an academic and public life and the seeing of international and domestic issues in a common context ahead of his time; carried the message of this University and gave it new significance as he developed the international exchange of scholars and as he championed intellectual freedom. It was from here that he made possible the relationship between the University and the *Encyclopaedia Britannica* pleading with his fellow trustees to recognize the importance of that relationship to the University and to the society as an instrument to help make possible a learning society.

Because of his extraordinary leadership for this University, the Board of Trustees created the William Benton Medal as the University's highest service award to be given not more than once in a five-year period, and conferred the first such medal upon Senator Benton. I know it gave him great pleasure to have Paul Hoffman as the second recipient. Now the University, enabled to take this step through an anonymous donor (matching funds previously given by the Mellon Foundation), has established the William Benton Professorship, and in addition an appropriate area of the Regenstein Library will carry his name.

These signs inadequately express the impact upon our own lives which William Benton had—the disarming candor, the insistence upon, and devotion to basic principles.

But they are in recognition of an influence which will remain and grow. William Benton's reach was always for the future. I welcome you to this gathering knowing that what we shall talk about and think about is not just of the past, but of an abiding meaning for tomorrow.

MR. ORTON H. HICKS

Fifteen years ago when Dartmouth was about to appoint a Vice-President, President Dickey addressed a memo to the college trustees in which he outlined the specifications of the job, touched on my alleged qualifications, but did not hesitate to mention my obvious deficiencies. In connection with the latter, he wrote: "Hicks is not a good public speaker, but he has one great asset: he does not talk long!" Except for my proud claim of being Bill Benton's oldest friend, that is probably my only justification for my appearing in such distinguished company. At least I shall set a standard of brevity for my colleagues who follow.

The early schoolboy days with Bill at Shattuck gave promise of the man who was to come. Even then his persuasiveness was legendary. My senior year pet project as editor of the school paper was to drive the two wholly worthless and entirely political fraternities off the campus. Bill, as head of Tau Phi fraternity, came to dissuade me. One hour later we had not only reversed the editorial policy, but I had also joined Tau Phi and was campaigning for Bill to be class President on the Tau Phi ticket.

Forty years later, that same persuasiveness turned the tide when Bill was negotiating with me for Britannica to acquire exclusive 16mm distribution of Metro Goldwyn Mayer's library of feature films. MGM's President, Arthur Loew, was hesitant to sign the deal because he had heard that Britannica was "not having a very good year." I asked Bill for a rebuttal. He replied: "The rumor is true. Last year EB made $18 million. This year we will make only $10 million. But that is still a lot better than your $5 million profit at MGM!" (Bill had always done his homework.) And then as an afterthought Bill said: "As further evidence of Britannica's inherent stability there is one more thing you can tell Arthur: 'If ever he had made as many mistakes as I have made, MGM would not even have survived.'" Courage was one of Bill's greatest qualities—whether he was standing up to the school bully, or confronting the infamous Joe McCarthy, or telling off MGM. That same boldness founded the first radio-oriented advertising agency and brought to this great University of Chicago the largest gift in the history of fund raising. Yet with it all Bill had fun! He enjoyed life! He might well have written that line of Robert Louis Stevenson's from *The Lantern Bearers:* "They who miss the joy miss all."

A joyous nature, contagious enthusiasm, bold courage, and inspiring leadership: these are qualities we will always associate with Bill. And at the very top was the quality of his friendship. My own indebtedness to that friendship spans 58 years. Included in that list of debts is the friendship Lois and I enjoy with Helen and her gracious family; the friendship that has brought me the honor of appearing on this program today.

But a far greater debt is owed to Bill by society at large. The world mourns the loss of a truly great man while we in this room mourn the loss of a loyal and honored friend. Bill, our affection for you is best expressed in the final line of Dartmouth's Alma Mater: Bill, "there is no music for our singing, no words to bear the burden of our praise."

MRS. ANNA ROSENBERG HOFFMAN

On Bill Benton's last visit to Lyndon Johnson's ranch, only a few weeks before the President's death, President Johnson gave Senator Benton a copy of his book, *The Vantage Point*, containing the following inscription: "To Bill Benton, a man for all seasons. A compassionate leader in all fields that make his country and its people better and stronger. Education, relations with other nations, environment, business, and the plight of his fellow man, benefit from this unique and very unusual man—from his friend through all the years, Lyndon B. Johnson."

All of you here today have in some way shared the excitement of working with or knowing this unique and unusual man.

Many of Bill's accomplishments will be part of America's history.

The Senator who had the courage to be the first to stand up on the floor of the U.S. Senate and tell Senator Joseph McCarthy the truth.

The man who had the vision to create the "Voice of America" when he was in the State Department—a voice that became the voice of hope during the troubled war years.

The Chairman of the UNESCO Delegation who won the respect and leadership for the United States in the many educational and communications areas all over the world.

Yes, Bill Benton dreamed the impossible dream, and fought the unbeatable foe; but he made the impossible dream come true, and to him there was no unbeatable foe.

He became a leader in business, but his business ventures were not to amass a fortune for himself or his family, but to make a contribution to education and knowledge. Under his leadership the *Encyclopedia Britannica* became the greatest and the best. Bill Benton would not settle for less. He was a proponent of visual education in the very early years, and his company, Encyclopaedia Britannica Educational Corporation became a trail-blazer in this field. The Great Books, Merriam Webster, Compton's, Praeger, Muzak, these are all ventures most of you know about and some of you will talk about today.

Some of you will remember the many memos that Bill Benton sent to all of us, and at times we complained about them, and yet, we now all feel that life lacks some of the excitement and inspiration and how we wish we could still receive those memos.

I am sure some of you here today will talk about many of Bill Benton's accomplishments, but I would like to share with you a quiet moment of remembrance of Bill Benton—the man—the man who had a quality of friendship that I have known in no other. Many can bear testimony to this wonderful quality in Bill.

My mind goes back to a year ago last May when Bill Benton sat with me in an airless hot corridor hour after hour, day after day, while his friend Paul Hoffman was fighting for his life in a hospital intensive care unit. Time and time again I asked Bill to leave telling him that there was nothing he could do, but he stayed, trying by the force of his friendship and the strength of his love to help Paul in his fight on the other side of the wall. And I believe that he somehow did help Paul in that fight.

A few days after Bill's death Paul, who read all the editorials and comments, dictated these few lines and, as he cannot be here with you, I would like to read them. They were written by a man who knew and loved Bill Benton as I did:

"As was anticipated Bill Benton's death has resulted in his receiving a large number of eulogies from many parts of the world from many different people. They have one fault in common: They give great emphasis to Senator Benton's accomplishments as an advertising man, a businessman, and a politician, but none stress what in my mind was his most outstanding characteristic; namely, that he was a great human being and always looked for a chance to help other human beings realize their full potential. I am one of the many hundreds of people Bill Benton helped in a most effective way because of his human compassion. This explains the reason why he has so many devoted and intensely loyal friends throughout the world. He would do anything to help a friend achieve a worthy objective."

Bill Benton left a proud heritage to his children and his grandchildren, and the great trust and responsibility to his wife, Helen, who I know is proud of this confidence and will carry out his wishes and ideals. And we, Bill's associates and friends, will give Helen the same loyalty and devotion we gave Bill.

HOWLAND H. SARGEANT

William Benton labored long to teach me the value of the short descriptive phrase. I was thinking how he would have phrased his own life in international affairs. Perhaps like this: A founding father of UNESCO. Revolutionizer of America's International Information, Educational Exchange and Cultural Relations Programs in the face of formidable opposition. Organizer of the "Voice of America." Vigorous champion of worldwide freedom of information. Discerning prophet of education as the key to Latin America's future and eloquent advocate of life-long education. Recipient of the State Department's Distinguished Honor Award. First American member of UNESCO's Executive Board to hold the rank of Ambassador.

I don't know whether Bill would have given me a passing grade. He wouldn't have written this about himself, but I think he would have liked the effort to summarize and try to say in short compass some of the things that stand out in a lifetime of diversity. His close friend and colleague from the Senate, Senator J. W. Fulbright, Chairman of the Senate Foreign Relations Committee, appraised his significance in the field of foreign relations in these words in a letter to Charles: "He possessed an enlightened and humane attitude, which helped our country play a constructive role during the years he was in the Department of State and in the Senate.

"He was deeply interested in the work of UNESCO and recognized that good international relations depend upon factors other than from military might.

"He thoroughly supported the students exchange program and all other activities designed to encourage the interaction of scholars and of citizens of many nations. He had a strong interest in education, and his early reports upon the educational programs in Russia did a great deal to further the understanding of the people of this country about the Russians. In view of this nation's tragic experience in military intervention, Bill Benton's policies and ideas appear more valid with the passage of time."

Yet Bill Benton came late, in mid-career, to most of these international concerns. The institutions on which he left his imprint are for the most part sublimely unconscious of the profoundly shaping influence that he exerted. It is an influence that becomes more distinct as time passes. For example: UNESCO later rejected its original narrow concept of concentrating on the "elite of intellectuals," and moved toward the position that William Benton had advocated from the earliest days when he pressed for programs, including mass communication, to work toward the "common understanding of the masses of the people in this world." When he came back to UNESCO in 1963, he said his return as a founding father could be likened to that of Thomas Jefferson returning to Washington of today and trying to wend his way through the Pentagon. He found that UNESCO's programs of material aid and assistance in education and science were by then fulfilling a major need of the *developing* member states.

The institutions that he did so much to bring into being as instruments and elements of the worldwide program of information and educational exchange have been fashionably cycled and recycled in interven-

ing years, but I think the bedrock of his conviction has stood the test of time. In his letter of farewell to Secretary of State George Marshall, in the late summer of 1947, submitting his resignation as Assistant Secretary of State for Public Affairs (and incidentally leaving several lively babies on my doorstep) he wrote: "The security of this nation depends upon an informed opinion at home and abroad, and the truth is that although we have won such support for the principle, we have not yet aroused the imagination of our fellow Americans . . ."

If the Foreign Service today is not a limited guild of a traditional Foreign Service elite, but instead a broadly based corps of men and women capable of meeting the emerging post-war needs of a new era, only dimly perceived in 1946, then William Benton has a large measure of responsibility for this evolution. Loy Henderson, career ambassador of the United States, now retired, says: "Were it not for his efforts as mediator I doubt that the Foreign Service Act of 1946, which set the tone of the Foreign Service for the next 25 years, would have come into existence."

Here is a man, who in the field of international affairs, displayed that same great talent for friendship, that same zest for promoting and backing innovation and individual potential, as in all of his major efforts. His continuing significance in international affairs must be seen in part in the institutions be helped to shape and in the countless individuals—many are in this chapel today—whose lives he enriched and altered, and in that blend of enlightened courage and willingness to take risks that he brought to everything that he did. More than a decade ago, I was in Istanbul with Bill and he asked a perceptive lady who had seen at first-hand successive generations of ambassadors of this and other countries come and go: "What do you think are the three greatest attributes of an ambassador?" This lady replied: "First, courage; second, courage; and again courage"—an appraisal that William Benton fully shared, often repeated, and fully exemplified in his life.

MR. RICHARD H. HOWLAND

I speak the following words on behalf of Dillon Ripley, the Secretary of the Smithsonian Institution, who, alas, is in England today, as well as for myself. At the Smithsonian Institution we remember Bill as a Renaissance man dedicated to improving the quality of life in modern times. He was a man of many interests, both academic and professional; a man who felt at home on the campus as well as in the board rooms; a man who was known among museologists, publishers, government leaders, and the literate for his dynamism, innovations, and enthusiastic endorsements of unpopular as well as popular enterprises.

In a period when there was great discussion about the need for the business community to become interested in art, Senator Benton was a pioneer as an advertising executive and publisher who assembled American paintings of the first half of our century. I recall him saying: "My paintings represent my own taste, strict and unadulterated, without any advice from anybody. I have never sought any guidance on buying a picture nor have I concerned myself with whether the price would go up or down or whether I would be cheated. I buy recklessly and when I like an artist like Tom Benton or Ivan Albright I keep on buying his work." Bill Benton helped to develop the frontier that now is American corporate involvement in the art world.

He sponsored exhibitions of paintings in cities across the land as well as overseas. He sought out the advice of distinguished curators in planning these exhibits and his corporation, Encyclopedia Britannica, was one of the first to employ such a curator to take part in planning corporate development activities in the Arts. It is said that Bill Benton was the first private collector ever to buy paintings by Reginald Marsh. This was in the 1930s, which reminds us of a story about Bill and his art collections.

During the depression of the 1930s, Marsh came to the Benton country home in Southport to paint portraits of the Benton children. He remarked to Bill Benton: "Do you know that the WPA is giving $100 a month to artists? And they can paint anything they want. Sometimes I wish I could get a deal like that." To which Benton replied: "Go ahead. I'll be your WPA. Paint anything you want for me and bring it in once a month and I'll give you $100 for it." Scores of great Marsh paintings were delivered to Benton during a three or four year period.

He was at his best, perhaps, with a small group of friends at his generous table at home or abroad. These were exciting events punctuated by ideas and observations that flowed from him at the rate of almost one or two per minute. Bill had varied lives that covered several worlds. He moved easily and assuredly from the world of economics and politics to the social and educational universe with a deep background of knowledge of many subjects and disciplines.

For a number of years, I was privileged to travel with him and his family along with a variety of stimulating guests on several of the great yachts that he chartered for long voyages to the Mediterranean, seeking the sources and fountainheads of our cultures in ancient centers of civilization now yielding their past to the archaeologists' spades. For me, the most stimulating part of the voyages were probably not the sites themselves, but the informal seminars which Bill organized every evening before dinner on the yacht's deck. These cocktail hours stretched on, stimulated not by the generous drinks provided, but by his reactions to the reports and analyses that he requested of his family and guests, carefully prepared for days ahead, on topics and topography to be enjoyed the following day. The stimulation of Bill's responses, observations, and sensitive questioning led the reporting guest into realizing new depths and relationships that he had not previously suspected in his own topic of investigation.

I recall one of those evenings on the fantail of that great yacht, the "Flying Clipper," when we were discussing what, exactly, the Smithsonian Institution really is. Is it really what it set out to be—fully concerned with the purpose of its founder, James Smithson, who asked in his will that the Institution be devoted to the increase and diffusion of knowledge among men? This phrase encompasses two objectives and they are distinct: the first implies sponsorship of research, and the second the sponsorship of publications and the widest possible dissemination and exchange of information. Over the years, the Smithsonian has sponsored research into the domains of the planets and of space, into aspects of our environment on earth and in the atmosphere, and after having done so handsomely on the increase of knowledge, the Smithsonian has substantially added to its efforts in the diffusion of knowledge. Diffusion has meant innumerable publications, not just the results of research, but encyclopedic works and compendia.

As we—he and I—considered the millions that flock out of our buildings touched by our research and diffusion, it seemed to us that what we have ended up with is an aspect of a university without walls, an open university so to speak, that seeks to exploit the most modern communications as well as the most lasting ones to diffuse knowledge that is both significant and sensitive to all mankind. Bill Benton was actively concerned all his life with the increase and diffusion of knowledge, and in many ways was a university himself in our Smithsonian definition of the term. He embodied the ideal that James Smithson issued as a challenge to us over 150 years ago.

We shall always honor him as this and as a great world leader concerned with progress and hope. He was an interdisciplinary man with Renaissance tastes and concerns that he shared not only with our generation, but has passed on to those still to come.

THE HONORABLE HUBERT H. HUMPHREY

Five years ago, Mrs. Humphrey and I were privileged to be here at The University of Chicago with Bill and Helen Benton on the occasion when the University was honoring this fine and good man. It was supposed to be a surprise visit on my part. I was occupying another office at that time, and I came flying out here at government expense to share in this wonderful occasion. I have to tell you, however, that Bill Benton had wired me. He didn't expect me, but if I could come, he said, "don't speak more than two or three minutes."

Now can you imagine that loquacious conversationalist, Bill Benton, saying to that super loquacious conversationalist, Hubert Humphrey: "Speak only two or three minutes?" But this was the measure of our relationship. We could speak with great candor, knowing that neither one of us might pay too much attention to any sharpness in it.

I saw in Bill Benton what you have seen in him. Maybe you have seen much that I haven't. But above all, I saw in him a restless spirit, but not an angry one—a restless spirit that was a part of the times, a part of the action of our century.

I saw in him a very, very great love of three eminent institutions—his *Encyclopaedia Britannica*, this great University of Chicago, and the United States Senate.

Of course, for anyone to give a brief glimpse into the life of Bill Benton is like trying to summarize *Encyclopaedia Britannica* in just a few paragraphs. It is literally impossible. So I'm pleased to have this opportunity to hear from several of his friends so that we might at least learn a chapter or two of the "Lives of William Benton."

I like that title of his biography because, truly, when I was asked recently how long he had lived, I said that's not the question. The question is *with what intensity* he lived. Because to Bill Benton, years were just a way that some people charted the course of history. To Bill Benton a year was an opportunity to do several years work and undertake many generations of hopes.

Now, how do you describe this man? How do you evaluate him or judge him? Well, I've tried and I must confess that I haven't been able to do a very good job of it. I have looked over many of the things that others said about him.

They said he was "unique." That's the understatement of the year.

"Courageous?" Indeed.

"Innovative and creative?" Words we use that were just a part of his very being.

"Conversationalist, engaging?" I should say how many hours I have enjoyed the privilege of his company—as we tried to speak, both at the same time.

"Stimulating, exciting?" Surely that is but part of the character.

"Intellectual and a scholar?" Surely, yet he never really wanted to be known as an intellectual. One of his great talents was exciting intellectuals to be more intellectual.

"Educator?" In the best sense of the word. Not only the formal educator, but the educator of the open university, of life itself.

And "administrator, publisher and author, businessman and salesman." He was not just salesman of the product, however, but salesman of the idea, of a theory, of a philosophy.

And, yes, he was Senator and Ambassador. These were honored titles for him.

And, of course, as it has been said, he led

with "Voice of America" programs of international exchange in culture and education—this is Bill Benton; not government, Bill Benton.

UNESCO was very much his idea and it was one of his joys of private and public life, being Ambassador to UNESCO. He gave so much and I doubt that he received very much except the knowledge or the feeling that he was able to share of his talents with so many people.

As husband and father, he excelled.

And many are in his debt as philanthropist, patron of the arts.

But I will remember him most as a friend, a good friend: accepting you as you are, always willing to help you become something better; a benefactor, a critic, a helper, one who was intensely loyal and who shared openly his love and affection for you.

"Generous?" Yes, I knew him to be very generous, but his greatest generosity was the gift of his friendship. I've never known anybody who knew so many people. You could mention a name and Bill Benton could give you really a full description, his life, his works. He knew everybody, as I used to say, and if he didn't, he set out at once to make the acquaintance.

May I take a few minutes of your time to tell you about his politics? He wasn't just a private man. As a matter of fact, he was very public. He had ideas about everything and he would tell you. How refreshing!

No carbon copy, this man. He was open, candid, opinionated, frank, and informed.

In politics, he was a Democrat—another blessing in his life. But he was not only a Democrat, he was an independent.

He knew the great men of our time because he was one of them. His love for Harry Truman was known and he everywhere proclaimed his respect for Dwight Eisenhower. His affection for Adlai Stevenson was a rich part of his life. He had deep admiration for John Kennedy and Lyndon Johnson.

These are all chapters in the rich and rewarding life of my friend, Bill Benton.

I met him first in Atlantic City when he was Assistant Secretary of State for Public Affairs and I was Mayor of Minneapolis. We gazed upon each other, wondering what kind of a man is this, and out of that meeting came our wonderful friendship.

He came to the United States Senate in 1949. He only served there three years, but he did more in three years than some people do in three decades or three generations. He didn't wait. I don't believe that he knew that he was a freshman senator, and, if he did, it didn't bother him a bit—except to reinforce his view that as a freshman he was supposed to shake up the establishment.

He set to work at once. He was in every debate. The subject of education was foremost in all of his utterances and thoughts.

But above all, this man, this friend of mine, Bill Benton, was a confirmed enemy of any form of bigotry and discrimination and he set out early—in fact his very first speech in the Senate was on the issue of civil rights at a time, may I say, when most were silent and fearful. Bill Benton spoke up for fair employment practices when others were hiding out. He looked upon the immigration laws of our country, saw in them provisions that were an insult to decency and humanity, and fought hard to make those immigration laws worthy of a democracy. He spoke out for effective federal aid to elementary and secondary education. He did this at a time when it was unpopular to be for civil rights, to be for liberalized immigration laws, or to be for aid to education.

Then, how well I remember when he spoke to me of the day, it was in August of 1951, when he decided that he would challenge the late Senator Joseph McCarthy because, as he said, Senator McCarthy represented a pattern of fraud and deceit. He called upon the United States Senate to expel him—an act of immense courage that no one else was willing to undertake. I remember Billy saying to me: "I feel that I'm the one that can do it and I shall."

Yes, this man was a man of moral courage. He was a public man. Some might say that he is best characterized by his efforts in international affairs, his support of NATO, his leadership in the field of assistance abroad—the economic and humanitarian are parts and chapters of this man's life.

But above all, to me, he was a person dedicated to public service. His private enterprise was public service. He shared, he gave. He did "cast his bread upon the water" and it did come back in rich dividends. Not dividends of money, but dividends of rewards to life—a feeling that he was making a contribution to a better world.

Bill was an optimist. I think that I found my friendship with him, in part, because of that characteristic. He believed that humankind could do better, that he could make a difference. He recognized that institutions of democratic government need constant nourishment and constant protection.

He loved Adlai Stevenson, as I said. In fact, some of the happiest hours of my personal life have been in the company of Bill Benton and Adlai Stevenson: the wit, the humor, the arguments, the discussion. How they would work each other over! And then, after they were through, they would turn on me. And then I would join with one of them as a partner in working over the other. Oh, those precious hours, and they were hours, believe me, and they were wonderful.

Adlai Stevenson summarized for me, and what I think would be for Bill, the meaning of democracy. I read to you what he said in 1963:

"Democracy is not self executing. We have to make it work, and to make it work we have to understand it. Sober thought and fearless criticism are impossible without critical thinkers and thinking critics. Such persons must be given the opportunity to come together to see new facts in the light of old principles and to evaluate old principles in light of new facts by deliberation, debate, and dialogue. This, as we all know well, although some of us forget from time to time, requires intellectual independence in penitent speculation and freedom from political pressure for democracy's need for wisdom will be as perennial as its need for liberty. Not only external vigilance, but unending self examination is the perennial price of liberty, because the work of self-government never ceases."

That philosophy represents well the public man, Bill Benton—a man of penitent speculation, intellectual independence, deliberation, debate, dialogue, and discussion, who recognized that the work of self-government never ceases.

In all of his life, whatever the demands on his time or his resources, he gave of himself, to his friends and family, to the public, to the nation, to the world, and to the great family that he loved the most of all—mankind.

MR. HAROLD D. LASSWELL

The life of William Benton was a controlled explosion. He could turn a simple game into a tournament, a casual conversation into a commission of enquiry, a vacation voyage into a floating classroom. Strangers might think that all this pressured living would be intolerable. But for those who knew William Benton, there was no more point in resenting his unceasing initiative than there would have been in grumbling about any other natural force. The force of gravity may cause us to fall down from time to time; but mainly it helps to keep our feet on the ground.

Thus if William Benton kept asking, commenting, probing, it was not from the sheer pleasure of interfering with others; it was a by-product of an all-absorbing compulsion, a devouring commitment to act, and to act with relevancy. He was forever in search of workable ideas. Ideas that would work in the family, the business, the University, foreign service, the Democratic Party, the Senate. Life's distinctive and glorious moments were the times when ideas struck. Once the blitz of an idea came, off went the inevitable memorandum and the inimitable letter.

In one perspective, this unremitting activity was intensely personal. William Benton specialized in people. He was the center of innumerable pairs and circles. At the core were family and friends. Then the responsible actors in every sphere of operation. He was never more gratified than when these outer circles came closer and stayed intact while the stream of action-oriented communication went on.

Seen in another perspective, William Benton appeared to be remarkably removed from the personal. He spent notably few words on anything that could be interpreted as reviling his enemies or hurling recriminations after those who betrayed his trust. For him, life was too short for such self-dramatizing acts of self-indulgence. He was always inventing the future. What William Benton did is only partially to be understood as the characteristic aggrandizement of an ambitious ego. He gained wealth, though money was no end in itself. Money meant personal independence. It implied freedom from being overlooked or kicked around. It provided a means of fulfilling family obligations, of contributing to the advancement of education, public information, science and the arts, of strengthening moral and political causes and institutions.

The important point is that the ego was disciplined by the loyalties, the beliefs, and the faiths of the larger self with which he was identified. The unifying goal and continuing justification was enlightened effort, particularly in latent communication for betterment of the self and of the human condition.

When we look back at our redoubtable friend and ask how he came to be what he was, we take it for granted that the available answers must be far short of the understanding necessary to account for the distinctive quality of his life. We can recognize partial clues. The most illuminating indications are in the family environment to whose tradition he was so unequivocally attached. It is more than the lifelong impact of the strong-willed educator who was his mother; we must give full weight to the system of ideas in which he was brought up. His fundamental perspectives were shaped in a theological tradition; in his and our epoch the dogma continued to secularize. In William Benton's life we hear the echo of a world view that coupled commitment to the good with a sense of destiny. This cosmic viewpoint was expressed in any number of familiar biblical texts. Think of the unquenchable courage and optimism of our friend and recall a single quotation: "And we know that all things work together for good to them that love God, to them who are the called according to *his* purpose."

William Benton pursued a vocation on behalf of love, of enlightenment, of himself, and of others. It was a secular equivalent of a clerical vocation of his forebears to carry the gospel to all the world. From this background, and the mediating members of the family, came his direction and his strength and his contribution to our future history.

MR. NICHOLAS JOHNSON

William Benton's accomplishments and energy are legion. My father first told me about him—and the spectacular Robert Hutchins—when I was growing up in Iowa City, a couple hundred miles to the west of here.

Benton mastered virtually everything he touched. His restless, curious mind touched almost all that life has to offer during the

73 years we were blessed to have him with us.

He was, in turn, a good student, a supersalesman, creative advertising executive, a successful businessman, an energetic Vice-President of this great University, an architect of major domestic and foreign policy programs as an Ambassador and statesman in the Executive Branch of the federal government, a distinguished United States Senator, and, of course, publisher of the *Encyclopaedia Britannica* and related ventures—surely one of the most distinguished publishing endeavors in the world.

Throughout this zig-zag life, however, there runs a thread. For most of what Bill Benton did involved, in one way or another, the communications process. And much of the history of mass communication in America shows his hand.

At Yale, he was chairman of the *Yale Record*. As such he early experienced the process of censorship.

In his early years in advertising, radio was just coming into its own. And Benton was personally responsible for many of the program formats and advertising techniques that are still with us today.

I recall his telling me of his walking down a street in Chicago one summer evening in those early days. There was no air conditioning, and the windows of the homes were open. He could hear the radios playing, and almost all of them he noticed, were tuned in to "Amos 'n Andy." He had earlier made some of the first consumer opinion surveys for advertisers, but this evening stroll was probably the first effort at program ratings. There's some question whether today's methods are really any better.

When he left advertising he soon stopped listening to the programs he had created. But he never really lost his interest in radio, and later television, as educational tools. While here at Chicago, he developed the University's role in educational radio and instructional films. Years later, I recall a luncheon in London with him in which he was encouraging the creation of the Open University. He was one of the first to foresee the role that radio would play in politics. Many years later, he would be one of the first to use television in his own successful campaign for the Senate. A study of the BBC in the 1930s quickly convinced him of the superiority of that system to the one that he had helped create here.

Cable television is the hot item in mass communication today. But Bill Benton was dealing in "cable radio" 35 years ago. He called it Muzak.

Many have forgotten that Benton was also in the newspaper publishing business at one time—and that his paper, *PM*, was the first to carry radio program listings, the predecessor of today's *TV Guide*.

"Pay TV," or "subscription television," is also being talked about today. The FCC has recently authorized some experiments. But, once again, it was Bill Benton who first proposed subscription radio to the Federal Communications Commission in the early 1940s.

He saw the uses of radio by government. He encouraged the short-wave broadcasts after World War II that would become the "Voice of America"—a name he is credited with creating. He urged UNESCO—which he would later serve as an Ambassador—to use radio to educate the people of the world. His maiden speech in the Senate urged the Marshall Plan of Ideas. And, as Assistant Secretary of State, he was to encounter intransigence of the American radio networks in refusing to provide facilities for Secretary Burns to report to the people.

We are today more sophisticated about the role of government in intimidating the media for partisan advantage, for we have watched the process for the last few years. But Senator Benton was one of the first to suggest a non-partisan review of the performance of the media, a press council, about 25 years ago. Only in the last few months was it finally created, as others caught up with his early vision. For Bill Benton knew, from his own experience as well as his insight, that—and I quote him—"freedom of information . . . means freedom from any monopoly whatever, public or private. . . ."

Recently, a network president gave a speech in Washington angrily denying any possibility of "self-censorship"—only to return to New York to announce that his network henceforth would provide viewers no commentary or analysis whatsoever following Presidential speeches.

Benton knew that freedom of information might be imperiled as much by those who dispense it as by the censors in government.

And so, from his rich lifetime of participation in the process of mass communication, came an understanding of the need to reform—reform of, in some instances, forces which he himself had set in motion. And let history record that he was big enough to acknowledge that fact, and to act upon it. For he, and his family, have generously established the Benton Foundation to make possible some of those badly needed reforms—not in conventional ways but, in the greatest tradition of Bill Benton himself, in bold and innovative ways.

Even in death, he moves us forward with ideas and insights—and actions—in mass communication that are, so characteristically for him, years ahead of their time. A more precious gift to the American people, a more fitting memorial for Bill Benton, could not be imagined.

MR. ROBERT M. HUTCHINS

I have been asked to say a few words about William Benton and his connection with this University. They burst upon each other like a couple of bombshells. The University had never seen anybody like him because there was nobody like him. He had never seen anything like the University because the institutions that he and I had attended bore little resemblance to this one. The University of Chicago ever since its foundation had been pioneering in ways that, forty years ago, few other institutions had begun to think about.

Bill Benton's essential characteristics have been mentioned several times today. He had more energy than any living man, he had more ideas than any living man, he was a learner, teacher, communicator. He was filled with the missionary spirit. He couldn't meet anybody, read anything, or think of anything, and keep it to himself. He became the center of a vast communications network that included an ever growing circle of friends and associates who he thought ought to be informed about the remarkable things he had encountered. The missionary spirit would not permit him to sit selfishly by and allow those he liked or worked with to remain in ignorance. I have myself received as many as 16 memoranda in a single day. They contained admonitions, reproofs, enquiries, reports, most of which had also been sent to others. He had an aversion to the long-distance telephone, because, I believe, it was impossible at that time, legally at least, to distribute copies of telephone conversations. One thing is certain, nobody who ever worked with Bill Benton could pretend not to know what was on his mind.

When he and I were negotiating his appointment here, I took shameless advantage of all these characteristics. When he agreed to be a part-time Vice-President at a nominal salary, I knew I had at a nominal salary a man who would outwork all the rest of us who are on full-time and full salary. When he insisted that as Vice-President he could under no circumstances have anything to do with the University's public relations, I cheerfully assented because I knew that if he thought well of the University, his missionary spirit would force him to share the revelation he had received with those whose souls had not yet been saved. What he did was to make the University better known to the citizens of this country than it had been at any time since Mr. Rockefeller and Mr. Harper, with considerable fanfare, brought it forth in 1892.

The missionary spirit did its work through two radio programs, through countless articles in journals of every kind, through the vast private network of which he was the center. We can say more, I think. We can say that from him the people of this country began to get some glimmer of an idea of what a university might be. The popular view of universities at that date was that they were of two general kinds: there were institutions that were clubs with professional schools attached; these were the elite universities. Then there were those engaged in applied research and vocational training; these were the cow colleges. (Remember this was 40 years ago.) There were, of course, all kinds of gradations in between.

But Chicago, somehow, was a little different. It had been able to maintain the kind of unity and power that comes from some singleness of purpose. It had succeeded in building and preserving some semblance of an intellectual community. Because of Bill's efforts, some notion of the significance of such a community seeped into the public mind and remained there, for a while, at least. Such a community was made for Helen and Bill Benton.

Bill set about learning at once. I've often thought his success in everything he did resulted from his capacity for excitement and his ability to communicate that excitement to others. He had that instant capacity to size up a situation which can only be described as genius. It came into play in every phase of his life, as when he instantly saw the menace of McCarthyism and instantly understood the promise to the University of the *Encyclopaedia Britannica*. As he gazed upon the University, he was carried away by it. He liked the idea, program, and the people, particularly the people. He formed here some of the most important and durable friendships of his life. Many of them were to be mainstays of his existence long after he ceased to be an officer of the University. He and Helen made their house into an interdisciplinary meeting ground, a learning community within a learning community.

The story of *Britannica* has been told many times and I shall not repeat it here. However, there are one or two things that are often overlooked and that ought not to be forgotten in our effort to elucidate the Benton tradition. In the first place, the object was education and solely education. Bill tried frantically to get others to take financial responsibility for *Britannica*. Neither the University nor the dozens of wealthy men he approached thought it was a good risk. Management came to Bill by default because nobody else had the courage to face it. The conversation in the boardroom after the vote was taken was marked not so much by enthusiasm for the project as by sympathy for Bill Benton who had become the victim of his own propaganda.

And then there is the quality of his management. The countless memoranda the officers of the *Britannica* received from the Chairman over the last 30 years were largely devoted to explaining to them that they must not sacrifice the reputation and name of *Britannica;* they must not indulge in ventures that might be immediately profitable but that might in the long run turn out to be unworthy of the University and of the name and standards of *Britannica*. He would not sanction a project that he thought educationally unsound, and on the other hand, he would insist on enormous expenditures that might not increase sales, but that would

raise the educational quality of the product. He regarded himself as a trustee of a great tradition.

The questions of the future are those of the past—how to maintain *Britannica* as an educational institution, complementing and supplementing the work of this University and others; how to develop relationships between *Britannica* and the University in ways that will strengthen them both. We shall have to labor on these questions without Bill Benton's personal guidance. We know we shall not look upon his like again. Fortunately, for over 30 years, he established the principles we should follow, and their memory, like his, will not fade.

MR. ROBERT P. GWINN

One aspect of Bill Benton's will that seems to me to reflect the man faithfully was a preamble, in which he accepted the legal jargon as inevitable, but defiantly insisted on penetrating it with flashes of his own humanity.

"Under protest by me," he began, "but at the insistence of my lawyers, this will is overwritten with legal gobbledygook of the kind I deplore. If I were personally writing this will, Article First, assuming it is needed at all, would begin something like this. 'Please pay all my debts and all expenses—and be liberal, except with the taxing authorities!' Article Second would run along this line. 'Please give all articles of personal property to my wife, if living; otherwise to my children.' Article Third would read something like this: 'Please give all other articles of tangible personal property to my children in equal shares.' However, here goes the legal language which lawyers are not able to resist. (The lack of training of lawyers in the writing of clear-cut English, in college and law school, must help explain why so many lawyers are continuously kept busy arguing over the language of their predecessors.)"

Now, Bill Benton was not really "down" on lawyers as his indomitable mother was. He liked to quote a letter she wrote him as he was graduating from Yale: "If you can't do something respectable, won't you at least be a lawyer?" It wasn't lawyers that Bill opposed, but lawyers' jargon, or any jargon.

Actually, Benton was a salesman, another calling his mother disdained, but he went on to become the salesman of ideas that we all remember—of ideas and ideals, of noble goals.

Poor as a child, he set out to make money—and became wealthy and famous before middle age. At 35, he retired to devote the rest of his life to "something worthwhile," as he once put it. Here again, he succeeded beyond the dreams of most men—carving out memorable careers in education, Statecraft, and publishing—becoming even wealthier along the way—almost by accident it seems. It was in these later careers that he made the marks of which his mother would have been so proud.

Bill Benton revealed a casual and utilitarian attitude toward money as an implement rather than a goal, an attitude that was refreshing as it was unusual. He once blandly declined to spell out a plan for repayment when he sought a large loan. "You're in the business of lending money; I'm in the business of borrowing it," he pointed out to a somewhat startled banker—who finally agreed that Benton was a good risk.

I remember a number of occasions on which he rather startled his own Board of Directors at *Britannica* by making similar detached statements about money. "There is only one reason why *Encyclopaedia Britannica* should show a profit," he would say, "and that is to enable the continuing improvement of the educational and editorial excellence of its products." The *Britannica* is his monument and we can dedicate it proudly to him as indeed we shall do in the new 1974 edition.

Yes, excellence was his goal, and not riches, and the fact that his pursuit of excellence brought riches was to him fortunate but irrelevant. He was impatient of anything that interfered with the realization of excellence. He was impatient of committees, which, he would scoff, usually meet to confirm the fears of its weakest members.

He was impatient with the kind of timidity that would keep a man from living up to his fullest potential for fear of making mistakes. "The man that never made a mistake never made anything," he was fond of quoting. Sometimes he urged associates to "make more mistakes." He was impatient with perfectionists and the unceasing quest for perfection, which he considered unnecessary as well as unrealistic, and, worst of all, a waste of time. Improvement, yes; perfectionism, no.

In William Benton, we have had a giant among us, but a giant we could comprehend because he was so human at the same time that he was larger than life. The three months since his death have begun to bring home to us the enormity of our loss. The shadow that he cast remains, and it will affect the worlds he influenced for many years to come—enabling, exhorting, challenging, and cheering on those that woud use their potential to educate and to learn, to serve and to enjoy. His shadow dares us to emulate him and leave our society better than we found it.

William Benton's life affected untold millions of other lives. What he set in motion will influence uncounted millions more.

DAVID BEN-GURION, 1886–1973

Mr. HARTKE. Mr. President, with the passing of David Ben-Gurion, the father of Israel, the world lost a great statesman, a great diplomat, and a great leader of a people that seek their liberty and peace from the oppression of other men.

In David Ben-Gurion, Israel found its leader. I need not set out his great accomplishments in life, nor record for history the hurdles he leapt in his quest to solidify the Jewish dream of 2,000 years. Great men are known as great men in the hearts of all that come in contact with the hearts of those who were touched by the heart of a great man. David Ben-Gurion was such a man.

Mr. President, I had the privilege and the honor of meeting with this distinguished man. During a lifetime, the pleasures of recorded history are few—one of my highest pleasures was knowing the father of Israel.

OUR ENERGY DILEMMA

Mr. FANNIN. Mr. President, it is indeed heartening to see how Americans have voluntarily joined in the effort to conserve our precious energy supply in the current crisis.

President Nixon set the tone for this effort, and leadership also has been demonstrated by outstanding State and local officials across the Nation.

In my State of Arizona, Gov. Jack Williams issued a statement on December 7, 1973, which encouraged our citizens to enjoy the holidays, but to conserve energy as much as possible at the same time.

Governor Williams made some thought-provoking comments on our situation and steps we must take to survive the energy crisis. I commend the Governor for his foresight in working with legislative leaders, commercial and business leaders, and citizens group to work out solutions to the energy crisis.

Mr. President, I believe that Governor Williams' statement would be of interest to my colleagues and everyone concerned about our energy dilemma. I ask that it be printed in the RECORD at this time.

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

Governor Williams called today for the voluntary cooperation of Arizonans in a program of "moderate conservation" of energy resources during the holiday season.

He said we should eliminate outdoor decorative lighting, cut back the time Christmas tree lights are turned on, lower home thermostats to 68 degrees or below, eliminate unnecessary automobile trips, don't drive more than 55 miles per hour and spend Christmas at home with our families.

The Governor's statement follows:

I know that many of you are concerned about the energy challenge. There is reason for some concern, but I wish to assure you that we in Arizona can and will celebrate a traditional Christmas this year. We must, at the same time, carefully conserve our energy. The request I will make of you represents a program of conservation. With the help of all of you, we will enjoy the holidays; yet enter the New Year reassured by the knowledge that we have celebrated wisely.

We recently celebrated Thanksgiving. During this period much of the news was of a pending energy crisis. Yet, Thanksgiving was a happy time, and we had every reason to give thanks for the wonderful year we had in Arizona during 1973. Our Pilgrim forefathers and their Indian friends celebrated the first Thanksgiving day more than 350 years ago. Yet, the standard of living for which they thanked our Lord would please few of us today. Their meager existence represented the most extreme hardship by today's standards. Yes, we do have much to be grateful for today in this great country of ours.

We enjoy the highest and best standards of living ever achieved by any people throughout history. We are determined that we will not only sustain, but will improve this standard. We will have a merry Christmas in Arizona, and we will strive continually for a fair and equitable distribution of both wealth and happiness.

We will, at least for a few years, have a limited supply of energy as compared with our normal annual increases in demand. I have been alert to this situation for some time. Seven months ago I organized a special Fuel and Energy Study Team within our Office of Economic Planning and Development. This team has carried on an extensive research program that now keeps us well informed.

For some time now I have been meeting regularly and frequently with leaders of our State Legislature, with commercial and business leaders, and with citizen groups. They have joined with me in a team effort to assure you that Arizona will proceed very wisely and confidently into the new year. This message is truly from all of us.

There will be a sufficient supply of electricity throughout Arizona for the holiday season. There will be heat for our homes and fuel for essential activities. There are uncertainties regarding next year. National policies are still being formulated and some information needed to forecast the 1974 situation is still lacking. My requests are, therefore, limited to the holiday season.

You will be kept fully informed, and you may rest assured that you will have information in time to avoid undue hardship. We can celebrate a merry Christmas, but it is always wise to be prudent.

The current energy situation presents to us a real conservation challenge. If we can rise to the challenge, we can avoid a crisis.

As your Governor, and in this instance also as a spokesman for your elected Legislative Leaders, I urge you all to join me in a program of moderate conservation. Measures recently recommended by President Nixon can help us enter the new year with reasonable supplies of fuel and energy.

One of the elements of a joyous holiday season is the colorful display of Christmas lighting. Because there is a need for conservation, we are asking you to forego outdoor decorative lighting entirely. This will help.

If we have our indoor trees lighted, let us not leave them lit all day, or after we retire at night, and when our trees are lit, let us turn off other lights, and cut back on other electrical use. This will not only conserve fuel, but our trees will be prettier when the other lights do not compete for our attention.

I wish to be very frank. Many of you are aware that Christmas lights use very little electricity in comparison to our total demands. However, outdoor lighting would use several thousand barrels of oil that will be needed early next year.

It is possible that we could be faced with electrical brownouts, or blackouts, in Arizona before the end of 1974. The reason we are unsure is that the federal government has not yet responded to the requests of our utility companies for the oil needed to generate much of our electric power. We expect a reasonable allocation, but at this point we can't be sure.

We will have natural gas, electricity and oil with which to heat our homes, offices and stores during the holidays. The temperatures may be a little lower than we have been used to. Again, let us be conservative in our use.

You are aware of the short supply of natural gas. There will be enough natural gas to heat your homes. But, it is important here also, for us to be conservative in our use. Lower your heating thermostat to 68 degrees or below.

Careless use of fuel can result in people suffering lay-offs from their jobs and we certainly want to avoid that situation. Conservation will save jobs.

Even if you heat electrically, a lower thermostat setting will conserve fuel.

Don't heat your pool, lower the thermostat on your water heater and turn off the gas lights and torches.

I sincerely hope all of you will drive at moderate speeds to conserve gasoline. I am asking you to drive at a speed not to exceed 55 miles per hour on our highways. Although our automobiles would use even less gas at 50, some trucks and buses use more fuel at the lower speeds. Our studies indicate that 55 miles per hour is a good compromise speed that will save as much as 300,000 gallons of gasoline per day in Arizona. At the same time, it will be much safer to have all vehicles traveling at the same speed.

I ask that you limit the total amount of driving to conserve even more fuel. Don't make unnecessary trips. Join car pools where possible.

I suggest we spend Christmas with our families. I am asking the service stations to observe President Nixon's request not to sell gasoline on Sundays. However, I hope some will be open to furnish emergency services when these are needed.

These conservation steps I am asking you to take are necessary and significant savings of fuel and energy will be realized. Christmas may not be quite as bright outdoors as it would otherwise be, but it can be even more cheerful indoors knowing that we are spending our energy wisely.

SOVIET JEWS

Mr. PELL. Mr. President, I invite the attention of the Senate to the continuing serious situation in which many Soviet Jewish intellectuals and members of the professions find themselves. I am particularly concerned by reports of a new rash of harassments of Soviet Jews since the war in the Middle East began. One phase of this harassment has reportedly been an increase in charges brought against Soviet Jews of parasitism under article 209(1) of the RFSR Criminal Code.

This past week a Soviet Jewish engineer and computer expert, Leonid Zabelishensky, was brought to trial in Sverdlovsk on such charges. The trial is the culmination of a 2-year-long harassment by the authorities to deprive him of the right to work and sustain his family.

Mr. Zabelishensky's difficulties began after he had applied to emigrate to Israel. I have not heard of the outcome of the trial, but I strongly hope that the Soviet authorities in handling his case will bear in mind the fact that the Soviet Union recently became a member of the United Nations Commission on Human Rights.

I request unanimous consent to have printed in the RECORD a background statement about Mr. Zabelishensky's case, issued by the Union of Councils for Soviet Jews, which is doing such splendid work in the human rights field.

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

STATEMENT BY UNION OF COUNCILS FOR SOVIET JEWS

THE CASE OF LEONID ZABELISHENSKY

There is no further development in the case of Leonid Zabelishensky who is still in the central prison in Sverdlovsk. The charge of parasitism levelled at him has been the culmination of a two year long harassment by the authorities to deprive him of the right to work and sustain his family. Before he submitted documents for emigration to Israel, the following character reference was issued for Leonid Yakovlevich Zabelishensky, an assistant of the Faculty of the Order of the Red Banner of Labour of the Ural Polytechnical Institute:

"Zabelishensky L. Ya., born in 1941, a Jew, not a member of the party, finished the Ural Polytechnical Institute in 1964 specialising in construction and the technology of industry. After finishing the institute he worked in the computer centre of the Ural Machine Plant. He is an author of a few rationalisation suggestions on the improvement of electronic-cipher computer Ural-4. Since January 1967 Zabelishensky L. Ya. worked as a senior engineer in the laboratory of minor analogical machines in the computer centre of the Ural Polytechnical Institute.

"Since December 1969 he has been working as an assistant in the Faculty of Calculation Technique. At his work in the Institute Zabelishensky L. Ya. has showed himself to be a hardworking and creative worker. He has lectured in the course on calculation technique, speaking on different topics and leading practical and laboratory works. He is participating actively in works concerning the state budget and ordered scientific research works. He is working on the questions of increasing the safety of memory devices of cipher computers on magnetic tapes. He has published three articles and a lecture paper. One of the articles was sent to print. He knows the programming for the computer of the 'Ural' and the 'Promin' types. He was the first person at the Faculty who learned the application of the translation machine 'Minsk-22' to the algorithmic language. He takes part in the work of the philosophy seminar of the faculty. He is a public inspector of the Sverdlovsk Regional Komsomol Committee on the usage of computer technique.

"The Note of Reference is given for submission to the Department of Post-Graduate Studies of the Leningrad Institute of Aviation Machine Construction."

Signatures:

FILIPP ZAVSTROVSKY,
Dean of the Institute.
VLADIMAR PUSHKARV,
Secretary of the Party.
MIKHAIL TITOV,
Chairman of the Local Committee.

This glaring testament was issued on June 18, 1971. On November 11 he was dismissed from the Institute after applying to go to Israel. On November 25, 1971 the following entry was made in his work book by the head of the personnel department of the Institute: "Relieved as unsuitable for the position of an educator of students. Order No. 1007 of 25.11.71."

After this, he worked as a loader for a store, then as a mailman and also as a porter at the railway station. Every time he tried to find work in his own profession he found all doors closed to him. Zabelishensky's frustration is depicted in a letter to the Chairman of the Sverdlovsk Regional Trade Union Council on November 10, 1972:

"On September 28, 1972 I appealed to the Sverdlovsk Employment Bureau in 17 Engelsa St. for an assignment to a job. I was given the following addresses (verbally) of the following institutions: The Ural Scientific Centre—Pervomaiskaya No. 91 and the Sverdlovsk branch of Orgproekttsement—Lenina No. 50a. In the Ural Scientific Centre I was told that there was no need for specialists in my profession and was advised to go to the Sverdlovsk Institute of Mechanics and Mathematics. There was no work in my profession in Orgproekttsement as well. In the Institute of Mechanics and Mathematics I was told that there were no vacancies left. When I applied again to the Employment Bureau I received a verbal recommendation to apply to the NIIMT—Studencheskaya St., No. 16. There I was told that I could not be given the available vacant position because the director was ill. Prior to my application to the Employment Bureau I have applied, since September 1971, to various institutions of the town with the request to be given a position there: the administration of material and technical supply of the Middle Urals Promstroiniiproekt, the Institute of Black Metals, the Institute of Meteorology, Sverdlovsk Statistical Department, etc., but everywhere I was given a refusal. In the first one of these institutions I was told that they would have preferred to give the vacant position to a young specialist.

"Since May of this year I have not had a permanent job. I have not been working in my profession since November 1971. I would like to ask for your assistance in finding employment in my profession as a radio-engineer."

Later on in November 1972 Zabelishensky received a job at the Project Construction Bureau of Automatic Systems of Management (PCBASM). On April 26, 1973 the administration dismissed Zabelishensky for alleged loafing. In expelling Zabelishensky the PCBASM administration appealed to the local committee of the organisation:

"The Administration of the PCBASM asks for the confirmation of the dismissal in accordance with Article 33(IV) of the Code of Laws on Labour of the RSFSR of the senior

engineer of Section No. 12 L. Ya. Zabelishensky, born in 1941, who worked in PCBASM from the 27th of November, 1972. Zabelishensky did not go out to work from the 26th of April until the 10th of May, 1973, motivating his absence by the fact that he worked overtime and that time during which he was absent from his job was covered by the hours he had worked overtime. Yet he did not register his leave as necessary in accordance with the established order and he refused categorically to give explanations which was a breach of labour discipline. The violation was expressed in seven days of loafing."

S. I. STEPANOV,
Director of the PCBASM.

The local committee confirmed the administration's decision to dismiss Zabelishensky:

"The meeting of the local committee of May 11, 1973 Protocal No. 16. Chairman—Ryazhkin B.A.; Secretary—Smirnyagina E. V.; Nine members of the committee. The members of the party bureau were invited.

Discussed: the administration's request of the dismissal.

Decided: (with one abstention) to support the administration's suggestion to dismiss Zabelishensky in accordance with Article 33 (IV).

Signatures: Chairman—Ryazhkin; Secretary—Smirnyagina."

Zabelishensky appealed against the decision and took the PCBASM to court. He submitted the following statement of claim to the Leninsky Regional People's Court of Sverdlovsk:

"From November 1972 I worked as an engineer in the Project Construction Bureau of Automatic Systems of Management and from the 1st of May I was transferred to a position of a senior engineer. In connection with systematic overtime work which is done in the section, where I work, there was a procedure of registering the hours of overtime work in a special journal. When a worker wanted to receive time off he reported this to the heads of the section and, having received a verbal consent, took time off. Such leaves were not, in fact, registered and the worker was considered to be present in such periods, the time-board being marked for him. On April 24, 1973 there were 57 hours overtime which I had worked. Following this I submitted an application to the head of the section I. A. Shamota on the 24th of April, 1973 asking for time off. On April 24 Shamota did not examine my application and transferred it to his deputy S. B. Kurianovich so that he should get it approved by the head of the group Zakhareyeva and have it signed by her. I came especially to see Zakhareyeva on April 25, 1973 to discuss the matter and, having received her approval on taking the leave, I decided that the matter was settled. Therefore I used the days from April 26 to May 8 according to my own discretion. The administration of the PCBASK having received the approval of the local committee of the trade-union, issued an order of my dismissal 'for loafing without valid reasons'. I consider my dismissal from work to be wrong for the following reasons:

"1. I did not commit any action directed at a conscious violation of work discipline and loafing;

"2. The claim of the administration that my being on leave was not coordinated with the head of the section does not correspond with reality. The misunderstanding was the fault of the administration itself, which has established such a procedure of giving leaves in order to cover up the practice of overtime work which exists in the institution.

"I therefore do not consider myself guilty of loafing without valid reasons. I would like you to pass a court decision to reinstate me in the position of a senior engineer in PCBASM."

On June 26 of this year the court rejected Zabelishensky's claim. He then made an appeal to review the verdict. This, too, was rejected. During the summer his six-year-old son was very ill and he remained at home to look after him.

INTERNATIONAL SYMPOSIUM ON HOUSING AND ENVIRONMENTAL DESIGN FOR OLDER ADULTS

Mr. WILLIAMS. Mr. President, last week I participated in one of the most unique and significant conferences to be held in this city in recent memory. This conference was entitled "An International Symposium on Housing and Environmental Design for Older Adults," and was presented under the joint sponsorship of the International Center for Social Gerontology—ICSG—the U.S. Departments of State, Housing and Urban Development, Health, Education, and Welfare, and the American Institute of Architects.

On an individual basis, the planning and coordination of this exciting week was led by Dr. Wilma T. Donahue and Mr. Clark Tibbitts. The symposium planning was coordinated on an international basis with Dr. Jean A. Huet, who is the president of the Centre International de Gerontologie Sociale. Dr. Donahue is the emeritus director of the Institute of Gerontology at the University of Michigan, and Mr. Tibbitts is the director of the National Clearinghouse on Aging which is part of the Administration on Aging at HEW.

I would also like to mention the invaluable assistance voluntarily provided by one of America's foremost authorities on housing for the elderly, Mrs. Marie McGuire Thompson. Mrs. Thompson is recently retired as the formed Deputy Assistant to the Secretary for Programs for the Elderly and Handicapped at HUD.

The amount of valuable information and the number of important proposals discussed at this symposium are too numerous to mention, but I would like to accent some of the most noteworthy developments.

The major challenge of this symposium was to examine and exchange information and develop plans for action toward solutions of the problems presented by the housing and environmental needs of older people.

I was particularly impressed by the presentation of Monsieur Yves Pergeaux with whom I had the opportunity to visit at the close of the symposium. Monsieur Pergeaux is the director of the largest pension fund in France, the National Public Works and Construction Worker's Retirement Fund—CNRO. In his remarks to the symposium, Monsieur Pergeaux made a forceful and persuasive argument regarding the social role of investment capital—a thesis which Monsieur Pergeaux had demonstrated in his own inspiring system of housing and environmental care for retired and older workers in France.

I would also like to mention the presentation by Allan F. Thornton, the Director of Economic and Market Analysis at HUD. Dr. Thornton presented a skillfully prepared market analysis of housing for the elderly on a national basis. Highlighting his remarks was the conclusion that between 400,000 and 500,000 elderly persons predictably would move into housing for the elderly on a yearly basis if units were available. This prediction is based on a careful analysis of census data and HUD experience and assumes no subsidies. If you add subsidies, Dr. Thornton concluded that the figure would either double or quadruple.

In addition to the plenary sessions of this 3½-day symposium, 225 persons from the United States and 17 foreign countries convened in six study panels focusing on a wide, but related, range of topics.

As an illustration of the significance of this symposium, I would like to point to the significant makeup of two of the panels in particular. These study panels were titled: "Government and non-Government Policies of Various Countries for Housing Older People," and "Financing Housing and Related Services: Investment Policy, Market Planning, Political, and Social Implications."

The membership and the discussions of these two panels alone demonstrate the uniqueness and the value of this kind of symposium.

We saw gathered together at the State Department a fascinating cross section of our society and that of other nations. The participants were people who normally do not have the time, or the opportunity to sit down together to tackle what are very demanding problems.

I ask permission, Mr. President, to have printed at the end of my statement, a listing of those persons who participated in these panels. Anyone who reads between the lines will recognize the influence and power represented. They will also recognize the novelty of such a meeting of these people in one place and at one time to mutually explore one of the most pressing, but unanswered problems of our time.

I am pleased to know that these leaders from a wide variety of disciplines—business, government, labor, and so forth—both American and foreign—all came to this symposium with a common motive—and the best one—their own self-interest wedded to the public interest. And I think both interests were well served.

In fact, for the representatives from the financial community, I feel it was a most profitable meeting. I am sure they would agree that it was a genuine learning experience.

The problems of housing for the elderly in this decade will not be solved unless we have the full cooperation of these separate, and sometimes competing groups. But what we have proved at this symposium is, first, there is a demonstrable market for housing older persons; second, there is a definite investment opportunity provided by this market; and, third, there is a role for both Government and non-Government leadership. But none of our ideas will prosper unless all these groups are willing to work together.

In closing, Mr. President, may I say that of all the things learned from the proceedings of last week, I am most encouraged to understand that the symposium organizers—working closely with Monsignor Pergeaux and his French colleagues—have agreed to keep this important mechanism alive and in place.

They will be working through such devices as an advisory group or a directorate to make certain that the unique progress achieved in these 3½ days in Washington will gain added momentum, and will reach new goals and objectives in our continuing effort to provide better answers to the problems facing the elderly in America and throughout the world.

I ask unanimous consent to have printed in the RECORD the lists of the participants of the two panels I described, and also, my speech to the symposium delivered on December 11, 1973.

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

STUDY PANEL I

FINANCING HOUSING & RELATED SERVICES: INVESTMENT POLICY, MARKET PLANNING, POLITICAL, AND SOCIAL IMPLICATIONS

Boisi, James O., Executive Vice President, Morgan Guaranty Trust Company, 23 Wall Street, New York, New York 10015.

Brownstein, Philip N., Attorney, Brownstein, Zeidman, Schomer, Suite 900, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036.

Butler, Gilbert, Vice President, Morgan Guaranty Trust Co., 23 Wall Street, New York, New York 10015.

Campbell, Wallace, President, Foundation for Cooperative Housing, 1012 14th St., N.W., Washington, D.C. 20005.

Carlton, Winslow, Chairman of the Board, Foundation for Cooperative Housing, 1012 14th St., N.W., Washington, D.C. 20005.

Cook, Daniel H., President, Eastern Conference, Health, Welfare and Pension Plans, Inc., 432 Park Avenue South, New York, New York 10016.

Crosby, Kenneth M., Vice President, Merrill, Lynch, Pierce, Fenner and Smith, Inc., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Dale, Martin H., Vice President, W. R. Grace & Co., 1114 Avenue of the Americas, New York, New York 10056.

Dudley, Remmel H., Vice President, Metropolitan Life, Paramount Building, Suite 508, 1735 I St., N.W., Washington, D.C. 20006.

Edie, John A., Professional Staff Member, Senate, Special Committee on Aging, U.S. Senate, New Senate Office Building, Washington, D.C. 20510.

Fitch, William C., President, Senior Advocates Int'l., Inc., 1925 K St., N.W., Suite 1208, Washington, D.C. 20006.

Haeffner, Peter C., Jr., Senior Vice President, Real Estate and Mortgage Division, Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, New York 10015.

Halamandaris, Val J., Associate Counsel, Senate Special Committee on Aging, U.S. Senate, New Senate Office Building, Washington, D.C. 20510.

Henle, John, Vice President, Columbus Area Chamber of Commerce, P.O. Box 1527, Columbus, Ohio 43216.

Hoenemeyer, Frank J., Senior Vice President, Prudential Life Insurance Company, 1 Prudential Plaza, Newark, New Jersey 07101.

Isler, Morton L., Dr., Director, Housing Studies, The Urban Institute, 2100 M St., N.W.. Washington, D.C. 20037.

Johnston, Charles L., Senior Vice President, Pension, Trust & Corporate Development Group, Chase Manhattan Bank, 1 Chase Manhattan Plaza, New York, New York 10015.

Kingman, Woodward, President, Government National Mortgage Association, Room No. 6230, 451 7th Street, S.W., Washington, D.C. 20410.

Keenan, Joseph, President, International Brotherhood of Electrical Workers, 1125 15th St., N.W., Washington, D.C. 20006.

Letson, Lewis, Executive Vice President, Community Management Corporation, Rossmoor Corporation, 908 South Power Road, Mesa, Arizona 85208.

Maguire, Charles M. (Convener), Consultant, International Center for Social Gerontology, 3411 Lowell Road, N.W., Washington, D.C. 20016.

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Nash, Bernard E., Executive Director, National Retired Teachers Association and American Association of Retired Persons, 1909 K St., N.W., Washington, D.C. 20006.

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STUDY PANEL II

GOVERNMENT AND NON-GOVERNMENT POLICIES OF VARIOUS COUNTRIES FOR HOUSING OLD PEOPLE

Adkins, Bertha S.: Vice Chairman, 1917 White House Conference on Aging, and, Consultant, Administration on Aging, U.S. Department of Health, Education, and Welfare, Oxford, Maryland.

Albouze, A.R.: Commissioner, Sacramento Housing and Redevelopment Agency, Sacramento, California.

Baer, Karl, Ph.D.: Librarian, National Association of Home Builders, Washington, D.C.

Bohn, Ernest J.: Urban and Environmental Studies, Case Western Reserve University, Cleveland, Ohio.

Borchardt, Marjorie T.: President, International Senior Citizens Association, Inc., Los Angeles, California.

Brickfield, Cyril F.: Legislative Counsel, National Retired Teachers Association—American Association of Retired Persons, Washington, D.C.

Carlin, Vivian F.: New Jersey Office on Aging, Department of Community Affairs, Trenton, New Jersey.

Cramer, Abe: Chairman, National Housing for Senior Citizens Committee, B'nai B'rith, Harrisburg, Pennsylvania.

Eckel, Rhea M.: Director, New York State Office for the Aging, Albany, New York.

Evans, John E.: Director, Department of Urban Affairs, American Federation of Labor and Congress of Industrial Organizations, Washington, D.C.

Fleury, Annette: Administrateur Civil—Chargee de Mission, Ministère de l'Amenagement du Territoire, de l'Equipment, du Logement et du Tourisme, Paris, France.

Franklin, Herbert M., Esq.: Frosh, Lane and Edson, Washington, D.C.

Godon, Gerard: Deputé des Yvelines Assemblé Nationale, Paris, France.

Goldman, Lawrence P.: Special Assistant to the President, New York State Urban Development Corporation, New York, New York.

Hackler, Eugene T., CPA: Former President, American Association of Homes for the Aging, Olathe, Kansas.

Howenstine, E. Jay: International Research Coordinator, Office of Policy and Development Research, U.S. Department of Housing and Urban Development, Washington, D.C.

Jackson, Mercer L.: Minority Staff Director, Banking and Currency Committee—Subcommittee on Housing, U.S. House of Representatives, Washington, D.C.

Jutras, Elizabeth McKenna: Division on Aging, Department of Community Affairs, State of Rhode Island and Providence Plantations, Providence, Rhode Island.

Kennedy, Sister Ethne: Executive Director, National Housing and Human Development Alliance, Wheaton, Illinois.

Lindblom, Olavi: Director General, National Housing Board, Helsinki, Finland.

Lindoerfer, John M.: Housing Consultant, Wisconsin Division on Aging, Department of Health and Social Services, Madison, Wisconsin.

Lombardo, Robert: Program Specialist, President's Committee on Mental Retardation.

Mabry, Virgil E.: Legislative Representative and Board Chairman, National Association for Non-Profit Retirement Living, Wesley Towers Corporation, Newark, New Jersey.

Mackelmann, Detles E.: Coordinator,

Housing for the Elderly, Loop College, Chicago, Illinois.

Marlin, Irvin R.: Associate Director for International Affairs, American Association of Retired Persons—National Retired Teachers Association, and Secretary, The International Federation on Aging, Washington, D.C.

McFarland, Carter, AIA: Director, Housing Programs, American Institute of Architects, Washington, D.C.

Mizell, Sharon: Elderly Housing Assistance Branch, U.S. Department of Housing and Urban Development, Washington, D.C.

Munns, Edward A., CPA: Member, Board of Directors, American Association of Homes for the Aging, Yonkers, New York.

Murdock, John A.: Assistant General Secretary, Section on Agency Ministries, Health and Welfare Ministries Division, Board of Global Ministries. The United Methodist Church, Evanston, Illinois.

Neuwirth, Lucien: Questeur et Depute de la Loire, Assemblee Nationale, Paris, France.

Niebanck, Paul L., Ph. D.: Professor of Environmental Planning, University of California at Santa Cruz, Santa Cruz, California.

Nierstrasz, F.H.J., Ph.D.: Deputy Director, Bouwcentrum, Rotterdam, The Netherlands.

Oriol, William E.: Staff Director, United States Senate Special Committee on Aging, Washington, D.C.

Ostergaard, Frede, Ph.D.: Program Director, Research Division, Danish National Institute for Social Research, Copenhagen, Denmark.

Pullen, Jo Anne: Student, Housing and Gerontology, School of Social Work, University of Washington, Seattle, Washington.

Revol, Anne-Marie: Director, Association des Residences pour Personnes Agees, Paris, France.

Robbins, Ira S.: Attorney and Housing Consultant, New York, New York.

Robinson, Robert B.: Director, Division of Services for the Aging, Department of Social Services, Denver, Colorado.

Russell, Bonnie, Ed.D.: Chairman, California Commission on Aging, Sacramento, California.

Shuman, Tarek M., Ph.D.: Division of Social Development, Director, Twelve-Nation Study on Aging, United Nations, New York, New York.

Sicker, Martin, Ph.D.: Director, Office of Planning and Evaluation, Administration on Aging, U.S. Department of Health, Education, and Welfare, Washington, D.C.

Switzer, Gilbert: Gilbert Switzer and Associates, New Haven, Connecticut.

Sykes, James: Director, Sun Prairie Colonial Club, Madison, Wisconsin.

Thornthwaite, Virginia: Office Manager, Cooperative Services, Inc., Detroit, Michigan.

Vanderbeck, H. John: President, The American Baptist Service Corporation, Valley Forge, Pennsylvania.

Weil, Julius, Ph. D.: President, Cornelia Schnurmann House, Shaker Heights, Ohio.

Wilkinson, Kenneth: Central Presbyterian Church, Zanesville, Ohio.

Zezzo, Joseph: Executive Director, Christian Activities Council, Hartford, Connecticut.

REMARKS OF U.S. SENATOR HARRISON A. WILLIAMS, JR., AT THE INTERNATIONAL SYMPOSIUM ON HOUSING AND ENVIRONMENTAL DESIGN FOR OLDER ADULTS

I am delighted to be here tonight to join with you in focusing on a vital and neglected subject: housing for the elderly.

There is no question that the problem of sheltering older persons is fast becoming acute. And, as this conference will clearly show, it is a problem that knows no national boundary. The growth of the aged population is a worldwide phenomenon. All of our countries now face a growing number of older persons who have put their full-time work years behind them, and who face years of limited income ahead of them.

As a United States Senator, I am deeply concerned about the problem of providing decent housing for older Americans. I wish I could have come here tonight to tell you that our country has found the answer. I cannot. As a matter of fact, I must tell you that we do not even have a national policy on housing the elderly to move us in the right direction.

The housing programs that were helping the aged have been either stopped or curtailed by the present administration. In their place, we have only studies, criticism, and tentative plans—in short, we have no policy in housing at all. I think this non-policy is inexcusable in light of the increasing gravity of this problem.

This glaring lack of policy must be replaced by a strong commitment to badly needed new construction for the elderly. But there is also a need for a national commitment that will go far beyond the mere concept of shelter.

We need a national policy that calls for a total living environment for the elderly. This new policy must take into consideration many factors. It must include group dining facilities and other possible methods of providing better nutrition for the aged. It must include readily available health and nursing care. It must include easy access to public transportation to help maintain the older person's active participation in the community. And, a new national policy must also include, in many areas, an increased measure of security to protect the vulnerable aged person from criminal attack.

There are, of course, other important concerns that must be considered in a national policy. I have only mentioned some of the more obvious needs. But what is most essential here is development of a comprehensive approach. We must provide a total living environment for the elderly—not only a roof over their heads.

Today, the dilemma facing many older Americans is really twofold. The first part is income. It is estimated that over 3.1 million elderly persons in this country have incomes below the official poverty threshold. Many others are not beneath the poverty level, but are not very far above it. Over half of all older Americans have incomes under $5,000, and one in every five has an income under $3,000.

But the issue is not simply one of inadequate income. It is estimated that every third older American lives in unsatisfactory or substandard housing. Over one million elderly households are in living units that lack some or all plumbing facilities. An elderly person with a low, fixed income, living in substandard housing in an area of tight supply, has very very little option of where he can live. It is my personal conviction that the government should help provide him with an option.

Millions of elderly are in need of better housing, but government response has not kept up with the need. Less than 500,000 units designed for the elderly have received Federal subsidy in the past decade. This is less than half the 1971 White House Conference on Aging's recommendation of 120,000 units per year. The waiting lists to get into those projects that do exist are one measure of the great need for additional units.

Last spring I sent out a questionnaire to a sampling of these housing projects. I asked them how long their waiting lists were. Those who responded reported a total of over 155,000 elderly persons currently on such lists. And we have many indications that this figure only begins to tell the story. Unfortunately, the number of persons on waiting lists continues to grow even though more units are built. For example, in my own state of New Jersey, more than 1900 new public housing units for the elderly have been made available in the last three years. But the waiting list has not gone down. It has increased by more than 2300 persons.

It is disturbing to note that the elderly pay about 33 percent of their income for housing, as compared to 23 percent for younger persons. In New Jersey, more than 76,000 elderly households pay rent and have incomes under $3,000 per year. Of these 76,000 low-income householders, 58,000 (or 75 percent) pay more than 36 percent of their income for rent.

Homeowners in New Jersey face a similar burden. One elderly woman in my state told me she recently had to pay more than $570 in property taxes, as well as an additional $260 for sewerage in front of her house. She will be paying out over $1000 in taxes on income of only $1,900 per year.

There is no reason why anyone should be forced to spend the last years of life living without assurance of shelter. I hope this symposium will begin to help us share with one another new ways to provide better housing. And, I hope these approaches will be aimed at meeting the total environmental needs of older persons. No one country has discovered the foolproof way to meet these needs, but perhaps discussions at this conference will lead to new ideas.

I note with interest that several countries, including France and Belgium, have developed versions of what we call "housing allowance" systems. Belgium, I understand, provides a moving allowance, a rent allowance, and an installation allowance of a certain amount over a period of time. These payments go to elderly persons who are willing to move from dwelling units not fit for occupancy, into units better adapted to their needs.

As you may know, housing allowances have been suggested for this country. Several experiments are now underway to see how well they would work. In all candor, I must tell you that I have serious doubts. I do not see how housing allowances will be helpful in areas of very tight supply. Furthermore, I do not believe they will be any help in encouraging the new construction of housing specifically designed for the elderly. However, I certainly welcome the comments and suggestions of those of you from countries with experience in housing allowances.

Another area in which some of you from other countries may have experience is in the financing of housing for the elderly through investment of pension funds. As you know, one of the most persistent obstacles to better housing for the elderly is the need for a large and stable source of construction money. It seems to me that pension funds are an ideal and appropriate resource for this purpose.

I will say, my personal interest in this approach probably stems from the somewhat unique position I occupy in the Senate. For 12 years I have had a close-up view of the problems of the elderly as a member of the Senate Special Committee on Aging. At the same time, I've been deeply involved in the development of our Federal housing programs as a member of the Committee on Banking, Housing and Urban Affairs. And finally, as a chairman of the Committee on Labor and Public Welfare, I've been working for three years on legislation to regulate private pension plans.

This combination of committee duties—problems of the elderly, housing programs, and pension funds—has of course shaped my outlook. And it has enabled me to see clearly the great logic of investing pension funds in housing for the elderly.

Of course, this is not a novel idea. Tomorrow you will be hearing about a program where this has been done quite successfully. The National Public Works and Construction Workers Retirement Fund of France allots three percent of its annual contributions to

a Social Development Fund; part of that money is used for retirement homes.

I've had the opportunity to visit some of these facilities, and I came away quite impressed. They show how money which workers set aside for retirement pensions can be put to use building facilities to serve them when they do retire.

In my judgment, this is an approach which we in the United States would do well to emulate. We have already seen a start in this direction by one of our most progressive labor unions—the International Ladies Garment Workers. The ILGWU has for some years been investing union funds in housing for its members. But to be effective, this approach must be instituted on a large-scale, nationwide basis. I am very hopeful this conference will develop some ideas on how that can be done—and generate momentum in that direction.

We already have in existence in this country a program which might serve as a model for what I have in mind. The program is called "202" and it involves direct loans from the Federal government to non-profit sponsors of housing for the elderly. The loans cover the full amount needed to construct the housing, and they carry only a three percent interest rate.

This program has been hugely successful. The non-profit sponsors—usually religious groups or labor unions—build and operate the housing. To this date, there has not been a single failure under this program—nor a single loan default. The reasons for this extraordinary success involve both the design of the housing units, and the nature of the sponsors. These buildings are designed solely to meet the needs of the elderly—and the handicapped. Moreover, the law allows these government funds to be used for more than simply living units. They can go for construction of the kind of comprehensive facilities I've already mentioned, to meet the need for a total living environment. Supplemental facilities include central dining areas, lounges, and hobby rooms. And once these so-called "202" facilities are built, they're administered by people who have both the concern and the talent needed to make them successful.

I believe an infusion of private investment patterned after, and complementary to, this "202" program could go a long way toward meeting the housing needs of our elderly. Unfortunately while we consider this new approach, we must also re-invigorate the "202" program.

Despite its excellent record, and despite consistent support for it in Congress, the current Administration has refused to utilize this program. The principal objection has been that the direct loans—despite the fact they will be repaid with interest—take too big a chunk out of the annual Federal budget. To meet that objection, I am sponsoring legislation which would change this financing mechanism to an independent fund that operates outside the annual budget. It would thus be largely self-financing, requiring only a minimal annual appropriation.

The Banking, Housing, and Urban Affairs Committee last week approved my bill calling for expansion and modification of the "202" program. I am hopeful that it will receive favorable attention from the rest of Congress next year.

I would also like to bring to your attention a recent experiment that has proven highly successful in meeting housing needs of the aged. As you probably know, the cost of institutional care in this country has risen dramatically in the last few years. I am sure this is true in other countries, as well. For that reason, there is great interest in programs that provide alternatives to institutional living. Such programs are meant to help support the elderly person who can continue living outside an institution—with a little help.

The Philadelphia Geriatric Center has successfully sponsored what is called "intermediate" housing for the elderly. Across the street from their multiservice center, they converted several single-family homes into efficiency apartments for the elderly. With the aid of Government subsidy, these refurnished apartments provide reasonable rents to elderly persons who need assistance but who do not need to be in the hospital or in a nursing home. Services available to the tenants of these apartments include an emergency hot line to the Center's health unit, free maintenance and repair of the building, a low-cost meal each day, and all the recreational and educational activities scheduled at the Center.

This is an excellent example of the kind of comprehensive approach to the needs of the elderly which I think we must take. At a reasonable cost, the aged residents of this "intermediate" housing arrangement are provided all the supportive services they need to keep from becoming institutionalized. And, they live in an environment where they can enjoy the companionship of others who face the same problems they do.

During our deliberation on the housing bill in the last few weeks, the Housing Committee examined whether this kind of rehabilitated, group housing arrangement can be financed under current Federal programs. We came to the conclusion that it can be. And, the Committee intends to make clear in its report on the housing bill that we endorse and encourage this type of project.

As I mentioned earlier, the problem of meeting the housing needs of the elderly is truly an international one. And, no single nation has a corner on the solution. That is why the work you are doing at this Symposium can be so significant. Each conferee brings to these discussions a unique viewpoint, shaped by his national and occupational background. By bringing all of these viewpoints to bear on problems we have in common, you will hopefully gain new insights into solutions. And regardless of what routes are indicated, I know we are all well aware of the objective we seek. That goal is a comfortable and pleasant living environment for every elderly person. We cannot overstate the importance of this. It was, I think, illustrated very well by an elderly woman I met in New Jersey. For years, she lived in an apartment which she was frankly ashamed of. But several months before I spoke with her, she had moved to a new apartment, in a "202" project. "Senator," she said, "I'm not ashamed any more. These last few months have been the happiest in my life."

That's what our objective ought to be; to make old age the happiest years of life. It can be done, and I'm hopeful you will help find out how.

RESOLUTION COMMENDING RADIO STATION KASU

Mr. FULBRIGHT. Mr. President, KASU–FM, the public radio station of Arkansas State University, provides outstanding service to the residents of northern and eastern Arkansas.

In addition to its high-quality programing, the station recently performed an exceptional service by providing weather information throughout the night in an area which has been plagued by severe tornadoes.

The city of Jonesboro was hit by a devastating tornado last May which resulted in major property damage. Consequently, citizens of the area are somewhat jittery about tornado warnings. Recently, on several occasions tornadoes threatened again and KASU remained on the air past its normal midnight sign-off to provide special weather reports, and on another occasion began broadcasting at 3:40 a.m. to provide weather reports.

The station and its staff, under the direction of Charles Rasberry, have been officially commended by Arkansas State University's Board of Trustees and by a unanimous resolution of the Jonesboro City Council.

Mr. President, I join in paying tribute to KASU–FM for its outstanding service and ask unanimous consent to have printed in the RECORD the resolution by the Board of Trustees of Arkansas State University and an article from the Jonesboro Sun of December 4.

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

RESOLUTION OF COMMENDATION, RADIO STATION KASU

Whereas, Radio Station KASU, under the direction of Mr. Charles Rasberry, has experienced steady growth in service and programming as exemplified by its becoming an affiliate of the National Public Radio network, graduating to a broadcasting power of 10,000 watts, and winning the adulation and support of area residents, and

Whereas, KASU was recently the recipient in competition of a $400 grant from the Arkansas Fine Arts Council for promotion of its fine music programming, and

Whereas, the Arkansas Chapter of the National School Public Relations Association presented to KASU the 1973 "School Bell Award" for outstanding coverage and interpretation of news about education, and

Whereas, the staff of KASU rendered exemplary and extraordinary service to Eastern Arkansas during the fall, 1973, when turbulent weather threatened the safety and welfare of citizens; this service consisting of continuous, reliable, and current weather information broadcasted at times during normal vacation periods and early morning hours, and

Whereas, the stature and reputation of KASU have been significantly strengthened as a consequence of the foregoing,

Now, therefore, be it resolved by the Board of Trustees of Arkansas State University that this resolution of commendation is hereby issued and disseminated for public recognition of the salient service, and dedication, and contribution which has been given by the staff of KASU under the leadership of Mr. Charles Rasberry. Furthermore, it is regarded by said Board of Trustees that KASU has promoted the value and importance of public radio in a way that has enhanced the welfare and betterment of mankind.

Duly adopted this 7th day of December, 1973.

VOTE ON STORM WARNING SYSTEM IS STEP NEARER

A few hours before another windstorm hit Jonesboro, the City Council moved a step closer to referring the question of purchasing and installing a storm warning system to the people in a special election.

Last night the aldermen instructed Mayor Neil Stallings to call a public hearing on the question of a tornado warning system and requested that City Attorney Warren Dupwe draw an ordinance referring the matter to the people in a special election.

Installation of warning sirens has been discussed by the aldermen periodically since the tornado of May 15, 1968, when 34 people

were killed, and discussion has been hot and heavy since last May's devastating tornado.

But there has also been opposition to installing the sirens, with persons opposing them saying that continuous blowing of warning sirens would cause harm emotionally to many people, especially children, and would be too expensive.

In lieu of a warning system, police have been sending squad cars out with "yelp" sirens turned on when a tornado warning—a funnel cloud reported in the area—comes.

Those "yelp" sirens have gotten a workout in recent days.

Last night the aldermen received a petition from nine citizens opposing installation of any siren system.

Several of the aldermen said they had received calls criticizing police for turning on the "yelp" sirens, while other aldermen said they had received many calls praising police for the action.

Alderman Jim Hannah said: "I have received many calls from people wanting me to thank the police for alerting them."

Mayor Stallings said he has received calls from people opposing warning systems and using the "yelp" signal and from persons "100 per cent in favor of a complete warning system."

He added: "People feel strongly—one way or the other—about this, and this put into my mind the importance of a referendum."

Alderman Dr. Bill Bowers, who has in the past been opposed to purchasing a warning system, said: "If ever an issue called for a referendum, this is it."

Alderman William Bowers who has headed the committee investigating a warning system for Jonesboro, said his committee wanted a public hearing on the matter.

William Bowers, who strongly favors a warning system of sirens for Jonesboro, said: "We've been studying this for five months, and I think it's time for some action."

Alderman Don Minx said he had received calls praising police for their action, and he paid tribute to Charles Rasberry of the ASU Division of Radio-Journalism-Printing for bringing radio station KASU on the air when the tornado alert sounds.

"It's great comfort to hear one voice in the middle of the night giving full information from the weather bureau, and I'd like the Council to pass a resolution praising Rasberry and KASU," he said.

The aldermen passed the resolution.

Mayor Stallings did not announce a date for the public hearing.

The aldermen have received various estimates of the cost of a warning system, depending on the type that would be purchased. Half of the cost would be paid by the federal government.

CANADIAN APPROVAL OF OIL SHIPMENTS TO MAINE

Mr. MUSKIE. Mr. President, earlier today I spoke of the severe problem facing two major paper companies in Maine because of Canadian restrictions on oil exports from the companies' sole supplier.

A short time ago, the Canadian Embassy informed the Maine congressional delegation that its government has approved a license to ship an additional month's supply of oil to the Great Northern Paper Co. and to the Georgia-Pacific Paper Co. This is welcome news, not only to the Maine people who depend upon the paper mills for their livelihood, but also to the hundreds of newspapers in the northeast who rely upon the two companies for newsprint.

Mr. President, I ask unanimous consent that the statement issued by the Maine congressional delegation in response to the Canadian decision be printed in the RECORD.

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

STATEMENT BY THE MAINE CONGRESSIONAL DELEGATION ON CANADIAN OIL SHIPMENTS TO MAINE

The decision of the Canadian National Energy Board to approve the export of an additional 200,000 barrels of oil to the Great Northern and Georgia Pacific Paper Companies provides welcome but temporary relief.

These shipments will provide another month's supply of oil to the companies' mills in Woodland and Millinocket. The Delegation will use this additional time to see that negotiations with Canadian authorities are vigorously pursued in an effort to secure a longer term solution to the problem.

The oil shortages faced by both Canada and the United States pose difficult problems, as this situation demonstrates. We are hopeful that this decision is an indication that the Canadians are willing to approach these problems in the cooperative spirit which has traditionally characterized the relations between our two governments.

A COLD CHRISTMAS FOR VIETNAM ERA COLLEGIATE VETERANS

Mr. CRANSTON. Mr. President, most of us look forward to the days ahead as a time to return to our homes, to visit our families and friends, and, generally, to share in the warmth of the holiday season. But, for many California veteran students, the prospect of this coming holiday has appeared very gloomy, indeed.

These students are the young men and women, who, after contributing years of their lives serving our country, were encouraged to use their GI bill benefits upon discharge from the service. They have returned to school with the justifiable expectation that they would receive their educational assistance allowance payments promptly each month. Since this academic year began in September, however, far too many veterans in colleges in California have received either no checks at all, or perhaps one or two checks which arrived several months late.

Mr. President, although there have been continuing problems, nationwide, concerning the timely payment of educational assistance benefits, no situation has come close to that of the Veterans' Administration regional office in Los Angeles. There have been continuing, serious difficulties with this office in the past. and now, the situation has clearly reached crisis proportions.

I was shocked to learn this week that the Los Angeles office has a 5-month accumulation of 6,600 backlogged claims, including 1,500 veterans in emergency need. Most of these emergencies involve veterans who have not received any VA payment since they registered for the school term this fall. Others have received only one check over these 4 months.

It appears that a combination of the ongoing problem with late checks, in addition to the extremely disappointing manner in which the VA has implemented the new advance payment provision—which I authored in Public Law 92-540 to ensure that the GI bill student-veteran would have his first check before he started his classes or training—have created serious difficulties for thousands of veterans in southern California.

Mr. President, my Los Angeles office has been besieged by phone calls and visits—50 a day or more every day this week—from young veterans in dire straits because of late or nonpayment of their educational benefits that were supposed to be received last August. Now, almost 4 months later, many student-veterans are being threatened with eviction from their homes or apartments, others have had to sell their cars for lack of funds to make the payments, many have been forced to drop out of school in order to take whatever job they could find to support their families, and all too many have had to give up plans to go home for the Christmas holidays.

In an effort to provide some relief to the 6,100 veteran cases affected by this massive foulup, and particularly to help those veterans facing serious hardships, when I learned of the gravity of the situation on December 19, I personally contacted the Administrator of Veterans' Affairs at the Veterans' Administration, Mr. Donald Johnson, urging him immediately to take whatever steps might be necessary to clear up this situation and get emergency payments to the 1,500 or so distressed Veterans. Mr. Johnson assured me that these veterans would receive checks before Christmas.

Mr. President, while the VA's past performance in implementing the GI bill, especially at the Los Angeles VA office, has cautioned me not to raise my hopes too high, I am somewhat encouraged that a number of emergency measures appear to be well underway at the specific direction of the VA central office, and I want to express my personal thanks and those of my constituents, to Mr. Odell Vaughn, VA Chief Benefits Director, for all he has tried to do to resolve this mess. I am advised that the following actions have been taken: The U.S. Treasury in San Francisco has this week been authorized to disburse checks to 1,284 veterans with special hardship cases; 400 extra Los Angeles VA employees have been assigned to process the hardship cases and to assist with the remaining backlog of 5,100 cases; the entire staff of the Los Angeles VA regional office will be working Monday, a Federal holiday, in an effort to clear up the remaining backlog by the end of next week; and VA and Postal Service officials have been conferring on ways to speed up the delivery of checks. I have asked the VA to consider hand-carrying checks from the San Francisco Treasury to the Los Angeles and San Diego areas.

Mr. President, I would like to point out that I have repeatedly urged the VA to open a regional office in the San Diego area to help remove some of the load on the LA office, and to insure better service to veterans in the San Diego area. The VA finally announced, in mid-August, that there would be a new San Diego regional office by mid-1974. In view of the current crisis situation in LA,

however, I believe that the VA should make every effort to open this office as soon as possible. I have reason to believe that this can be done by early February, and the VA Chief Benefits Director is already taking emergency measures to expedite this process.

Mr. President, I sincerely hope the VA is able to meet the Christmas deadline Mr. Johnson has set—for their sake, and more importantly for the sake of all the veterans and their families, who are in great need at this time. But even if the VA is able to make these promised payments by Christmas, I am convinced that a full investigation of the situation in Los Angeles is necessary. I think that each and every veteran, who is at the mercy of the LA office, is entitled to know exactly what caused these intolerable delays, and also to receive assurances that this situation will never reoccur.

Mr. President, delays, mixups, and unresponsiveness are nothing new to veterans served by the LA office. For 4 years now, I have been urging the VA to revamp thoroughly the operation of the LA office and to open a new regional office in San Diego. Veterans in the Los Angeles and Long Beach areas, and San Diego, Riverside, and Imperial Counties deserve far better treatment than they have been receiving.

This past August 29, I chaired a hearing of the Senate Veterans' Affairs Committee's Subcommittee on Readjustment, Education, and Training, at the request of full Committee Chairman VANCE HARTKE, who has also been deeply concerned about persistent reports of difficulties with the administration of the GI bill program, especially the operation of the regional office in the Los Angeles area.

Although I had already been receiving reports that serious delays in veterans educational payments were beginning to cause problems. At the time of that hearing in August, Regional Director Gordon Elliott assured me that he did not anticipate any problems with the implementation of the advance payment program, or the processing of regular educational benefits checks in southern California. Mr. Elliott told me they could do the job despite the fact that the case load for the LA office had increased 269 percent over the previous year. I was particularly concerned then, as I have been for 4 years, that the VA Los Angeles regional office needed more personnel to handle a rapidly escalating caseload; although, when I suggested this to Mr. Elliott, he said that he did not feel the office needed any more personnel to handle that increase.

Mr. President, evidently, Mr. Elliott was sadly mistaken. Sadly mistaken at the expense of several thousand GI bill recipients in southern California.

For that reason, Chairman HARTKE has asked me to continue the investigation I began last August as acting chairman of the Subcommittee on Readjustment, Education, and Employment, and I intend to hold a public hearing in Los Angeles sometime during the week of January 14, probably on Thursday, January 17, to get to the bottom of this matter.

We will conduct an intensive probe into what appears to be incompetence and poor administration in the top staff levels at the LA office.

Mr. President, I will be particularly concerned at this hearing to discover the specific causes for the current crisis situation in the LA office. Additionally, I hope we can develop some viable suggestions for more effective processing procedures for the veterans' education benefit program, and, in general, for a more responsive VA regional office in Los Angeles.

In getting to the bottom of the situation in LA, I also hope to clear up the discrepancy as to who or what is responsible for the problem. Correspondence and conversations with Regional Director Elliott indicate that everyone is to blame—the veterans, the schools, the computer in Chicago, the Treasury Department and the Postal Service—everyone, that is, except the LA office. Yet the VA in Washington has reported that no comparable problem exists or has existed in any of the VA's 56 regional offices. In fact, the total number of pending inquiries regarding educational benefits for the 15 regional stations which make up region 4—in which California is located—is 3,880, not including Los Angeles. Los Angeles, alone, has a backlog of 6,600 inquiries—almost twice as many as the entire area—out of 120,083 education cases.

By comparison, the San Francisco regional VA office has only 1,859 pending inquiries for an 81,919 caseload.

Mr. President, we owe a debt of gratitude to every veteran, and veterans benefits are a part of that debt which I believe we are morally obligated to pay. The VA is charged with paying off that debt. The men who went to war for our country can rightfully expect that debt to be paid in full and on time. Whether that means an education, job training, or a compensation, or a pension check, every veteran has an equal right to receive his full entitlement in the most humane and compassionate way.

I intend to do all I can to make this credo the unexcepted rule for all GI bill trainees in California.

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 concluded.

REGIONAL RAIL REORGANIZATION ACT OF 1973—CONFERENCE REPORT

Mr. HARTKE. Mr. President, I submit a report of the committee of conference on H.R. 9142, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 20, 1973.)

Mr. HARTKE. Mr. President, I submit the report of the committee of conference, having reached agreement after full and fair conference, on H.R. 9142, a bill to authorize and direct the maintenance of adequate and efficient rail services in the Midwest and Northeast region of the United States, and for other purposes.

Mr. President, we have worked long and hard to find a legislative solution to the myriad of problems and the potential for economic disaster inherent in the collapse of the Penn Central Railroad and six smaller railroads in the Midwest and Northeast region of the Nation.

In order to resolve, or rather, in order to set in motion a process that will resolve this regional rail crisis, the Senate Commerce Committee and the conferees for the Senate have swallowed a lot of doubts and concerns. As I have stated before, I gave up my preferred solution, which was represented by S. 2188 as the first step in a two-stage process, when it became clear that the House of Representatives would insist on a one-stage bill and process. We made substantial improvements in the House bill which will, I believe, increase the odds in favor of success for the new rail corporation that will succeed to the basic rail properties of the Penn Central and the other defunct railroads in the region. The pressure of time, and the need to achieve accommodation, resulted in the managers on behalf of the Senate yielding on several very important matters—which are explained in the statement of managers in the conference report—and these include matters as to which the Senate has spoken almost unanimously for many years. I refer specifically to the provisions setting up loan guarantees for freight cars. The chairman of the Committee on Commerce (Mr. MAGNUSON) yielded this point upon a pledge by the majority and minority members of the Surface Transportation Subcommittee of the Committee on Interstate and Foreign Commerce of the House to put a freight-car loan guarantee bill at the top of its agenda for consideration in the second session of this Congress, and to consider a freight car bill alone without all the other matters that have been connected with it in the House in the form of a proposed Surface Transportation Act. The Senate conferees also agreed, albeit very reluctantly, to have the bill set a general ceiling on obligational authority for the new association even before we know what is going to be in the new rail

service system for the Northeast and Midwest.

The House conferees did, however, accept one major element in the Senate bill that was not in their legislation, and for this the people who live along the east coast between Boston and Washington, D.C., owe a debt of gratitude to the senior Senator from Rhode Island (Mr. PASTORE). H.R. 9142 provides that, starting immediately, engineering studies and improvements are to begin, to be completed by the earliest practicable date, making possible high-speed railroad passenger service in the Northeast corridor. The legislation commits the planners and operators to regular train service that will take 2 hours fom Union Station here in Washington to the center of New York City and 2¾ hours from New York City to downtown Boston. On the basis of previous studies by the Department of Transportation, which is given responsiblity for making both the engineering studies and the improvements, the total project can be substantially if not entirely completed in 3 years, which means that high-speed rail service connecting most of the original 13 colonies should be in place for the 200th anniversary of the Declaration of Independence in 1976. The Secretary of Transportation, Mr. Brinegar, communicated to me his personal assurances that the Department and the Office of Management and Budget will "proceed expeditiously" to carry out their legislative mandate and complete the improved high-speed rail service project for the corridor.

It would have been tragic if we had not completed action on this legislation to reorganize and to assure the maintenance of rail service in the 17 States of the Midwest and Northeast. A shutdown of the Penn Central in the next few months would have subjected the people to unbelievable hardship.

I look forward to the President signing this bill into law and setting the regional rail reorganization process in motion immediately.

Mr. President, I cannot let this opportunity pass without again complimenting the people who were so helpful, especially on the Senate side, but also on the House side, the majority and the minority, in making it possible to deal with this complicated legislation in the fashion we did. The Senator from Maryland (Mr. BEALL) and the Senator from Kentucky (Mr. COOK), both of whom are in the Chamber, were extremely helpful, not only during the original consideration of the legislation, but also during the conference.

I regret that we took out the study that the Senator from Maryland was so much in favor of it. I think his position was proper, and I hope it will be provided for later. We took out a number of studies that are to be completed after the legislation is passed.

We feel we have a workable solution to a difficult problem. I urge the Senate to give its approval.

We began this debate with almost complete disagreement with the Department of Transportation. In our conversations with them in the last few days not only have we eliminated a lot of the conflict in approach, but I think this time we have gone so far in trying to do what we think is right and what they think is right that there is no longer the apprehension that this is a conflict between the Department of Transportation and Congress.

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

Mr. HARTKE. I am glad to yield.

Mr. BEALL. Mr. President, I rise to support the conference report. The Senator from Indiana has adequately described the provisions, although I do ask that at the conclusion of my remarks he describe the total amounts of money involved. It would be good to have those figures in the RECORD this morning.

I wish to congratulate the Senator from Indiana and all staff members who participated in this effort because, as the Senator from Indiana has pointed out, this has been a Herculean effort to get the conference report ready for consideration in the Senate so closely on the heels of the close of the conference, because this is a very complex and technical legislation which required around-the-clock efforts on the part of the staff to have the measure ready today.

It is true that the conference report does not satisfy all of us. Obviously each of us has misgivings about provisions that were or were not agreed upon in the conference. The Senator from Indiana alluded to some disappointments I have about things not included in the conference report. Nevertheless I believe we can be somewhat optimistic about the opportunities presented in this conference report before the Senate today.

All of us have been disturbed about the plight of the railroads in the Northeast and Midwest. We are aware how important the railroads are to the economy and to the lifestyle of the people in the region, and the tremendous responsibility we have at this level of Government to see to it that there is no cessation of service by the railroads in that part of the country.

Many reasons have been ascribed to the failure of the railroads in this section of the United States and elsewhere to make a profit or revive financial operations. People have said they failed to succeed, because of overregulation on the part of the Federal Government and slowness of the regulatory agencies in acting. This is true; there has been overregulation and slowness of regulation. It is said the railroad management has lacked imagination, inventiveness, and in some cases they have been accused of misappropriating assets of the railroads. That is probably true, and these factors have led to a decline of the railroads. It is said that the markets of the region have changed. This is true also.

It has been alleged that labor has insisted on archaic work rules that have impeded the improvement of productivity which is so important to a viable system. This is true.

All of these matters have to be attacked if we are going to get the railroads operating successfully and have them become viable economic instrumentalities once again.

I hope that with this legislation we have created the kind of framework through which we can overcome these difficulties.

We have responded to the overregulation or slowness of regulation by establishing new procedures for the regulatory agency to follow in dealing with this new organization. We have provided for great opportunities for people to manage that corporation. Certainly the challenge is there and we are hopeful that the very best people available will be utilized to deal with a mammoth problem.

I was hopeful that we could do something about the work rules. The committee and the Senate agreed that a work rules study should be made. It was taken out in conference. It was indicated that labor and management were working on this problem, were going to solve it, and the study was not needed, Time will tell. I hope labor will recognize its responsibility to make the corporation work and will recognize that we have to adopt the most productive ways of operating railroads, consistent with safety in order to make the new railroad successful.

With the adoption of the conference report today, we have the opportunity to create a successfully operating corporation that will provide effective, efficient, and ontime service to the people of the Northeast and the near Midwest region of the United States.

I hope everyone will recognize his responsibilities in this regard and the fact that nationalization may be the only alternative if this does not work. This is the last step, in my opinion, before nationalization of the railroads of the Northeastern section of the country. I hope, because we have taken this step that a viable, profitable corporation will emerge and it will not be necessary to take that next step.

Experience has demonstrated elsewhere in the world that nationalization has not worked and certainly has not been a bargain from the taxpayers' viewpoint.

I am particularly pleased that the bill, with my strong support, includes provisions requiring the implementation of improved high-speed rail passenger service in the Northeast corridor, from Washington, D.C.—Baltimore—Wilmington—Philadelphia—New York—New Haven—Providence—Boston. This bill will enable the implementation of the recommendations of the Secretary of Transportation contained in his 1971 report entitled "Recommendations for Northeast Corridor Transportation" insofar as those recommendations relate to improved high-speed rail-passenger service. This would provide for 2-hour service between Washington and New York, and 2½ hour service between New York and Boston.

Section 206(a)(3) of the bill mandates that the final system plan, the operative document for the restructuring of rail service in the Northeast and Midwest, provide for "the establishment of improved high-speed rail passenger service consonant with the recommendations of the Secretary in his report of September 1971, entitled "Recommendations for Northeast Corridor Transportation."

Section 206(c)(1)(C) provides that the final system plan shall designate which properties in the Northeast corridor shall be purchased, leased, or otherwise required from the new Consolidated Rail Corporation by Amtrak for improvement in order to achieve the high speed rail passenger service recommended by the Secretary in his 1971 report. Section 206(d)(5) mandates that any transfer of these properties—whether by outright purchase, lease, or otherwise—from the new Consolidated Rail Corporation to Amtrak is to occur at a "value related to the value received for the transfer to the Corporation of such properties." This provision is designed to protect the public interest by insuring that Amtrak receives the properties at the lowest possible price.

A U.S. Railway Association is created in the legislation, the purpose of which is to design the final system plan and to provide the necessary financing to implement that plan. The National Railroad Passenger Corporation is specifically designated as a recipient of guaranteed loans from the Association in order to assure that it can receive low interest money in order to upgrade the properties of the corridor. The obligational authority of the Association—which was set at a maximum of $1 billion in the House legislation—was raised to $1.5 billion by the conference committee in order to provide financing for the improvement of the Northeast corridor. The conferees specifically directed that language be inserted in the joint statement of managers indicating the reasons for the additional authority. Furthermore, the Association may come back to Congress and request additional obligational authority necessary to implement the final system plan; for example, implementation of high-speed rail passenger service in the corridor, and provision is made for raising this obligational authority by concurrent resolution of the Congress.

Section 601(d) places a duty upon the National Railroad Passenger Corporation to acquire the properties in the Northeast corridor that are designated in the final system plan, and to improve them "at the earliest practicable date after the date of enactment of this act" in conformance with the Northeast corridor report of the Department of Transportation. The Secretary is directed to begin the necessary engineering studies and improvements immediately upon enactment. The conferees specifically directed that the joint statement of managers should indicate that these improvements should be completed in less than 5 years. Authority is given for consultation with the Corps of Engineers in construction work on the corridor.

Improvments under this program will include the complete installation of welded rail, signal improvements, increased banking on curves, a complete fencing of the entire right-of-way, modernized electrification from Washington to Boston and new rolling stock. It is anticipated that the total cost of the project including the new vehicles and station improvements, will be approximately $700 million. Because the project will be financed by guaranteed loans, and because all projections indicate that it will generate significant profits, it is anticipated that there will be no problem in repaying these loans. Therefore, the project will be implemented at no cost to the taxpayer.

The Northeast corridor is the most densely populated portion of the country, containing 20 percent of the total population. The demand for passenger transportation in the Northeast corridor is extremely high, and the increasing density of population in this area will cause much more severe transportation congestion problems in the future without the institution of a balanced transportation policy. At the present time, all but approximately 10 percent of the innercity trips made within the corridor are by the highway or air mode. Recently, both of these means of transportation have been showing signs of growing congestion, causing a deterioration of travel speed and reliability for innercity trips along the corridor spine. If appropriate action is not taken, this situation will worsen considerably; the Federal Highway Administration forecasts that innercity highway travel will increase by a minimum of 65 percent between 1970 and 1985. As conditions worsen, the severity of highway congestion will significantly affect auto travel. Present and projected air travel within the corridor has even more serious problems than those affecting highway travel. For example, the total hours of passenger delay at Laguardia and Washington National Airports increased from 630,000 hours in 1966 to 1,750,000 hours in 1970.

With congestion already occurring in the highway and air modes within the corridor, and with total travel expected to grow at 3 percent per year for the indefinite future, it becomes evident that steps must be taken to insure that satisfactory transportation is available for those seeking to make inner city as well as local and extra corridor trips in the future. The Northeast corridor provisions of the Regional Rail Reorganization Act of 1973 will provide this transportation capacity in a very energy conserving manner, without the use of additional land, and at little environmental cost.

Mr. President, I hope we have created a framework from which a successful, businesslike operation can be put into effect in the northeastern part of the Nation, and I congratulate the Senator from Indiana for his efforts in bringing this matter to the floor today.

Mr. HARTKE. Mr. President, I want to thank the Senator from Maryland, without whom we could not have gotten this work done. I know of no man who is more knowledgeable about or more dedicated to the success of this venture than the Senator from Maryland.

I would hope that the Senate would take action in the field the Senator mentioned. There is no question that there is quite a bit of discussion, and understanding, or misunderstanding, depending on how one looks at it, on the question of work rules. There is also the question of what happens to displaced workers. There is the question of the potential of nationalization which was raised in the study proposed by Senators STEVENS and SAXBE, and the question of nationalization of rail passenger service raised by Senator BAKER's proposed studies. I think those questions should be addressed and those studies not only should be done, but should be done expeditiously. I hope in the next Congress we can move forward to do just that.

The Senator indicated that he would like to have the figures. I think it would be appropriate to have those figures put in the RECORD at this time.

Basically, they are as follows: The total authorization is $558.5 million. It is broken down as follows: $85 million in interim debt. This interim debt provision was passed by the Senate in a separate measure. It is an outright grant to be paid by the Federal Treasury for the purpose of keeping the railroads going until the final arrangement is made.

Five million dollars is for the use of the Special Office of the Interstate Commerce Commission in that field.

Twenty-six million is for the association's expenses. The association itself is the organization which will be doing the planning and original financing.

There is an additional $12,500,000 for the Secretary of Transportation. There is $90,000,000 for each of the 2 years following the effective date of the final system plan period for rail continuation subsidies to retain service which is not included in the original plan, but which is necessary to maintain.

Out of the $558.5 million there is also authorization for $250 million for labor.

For loan authorities, obligational authorities, there is a ceiling of $1.5 billion unless changed by another act of Congress.

Mr. BEALL. Are there further limitations on the $1.5 billion lending authority on how it might be spent?

Mr. HARTKE. The corporation cannot receive more than $1 billion. The rest is available for acquisition and improvement of the corridor. The corporation must commit $500 million to rehabilitation and modernization of the rail plant which it will operate. There is no set-aside for a deficiency judgment as there was in the House bill.

Mr. BEALL. I thank the Senator.

Mr. HARTKE. Mr. President, I yield to the Senator from Kentucky.

Mr. COOK. Mr. President, I wish to thank the Senator from Indiana.

May I say there is some consternation—I think all of us on the conference and all of us on the staff apologize—that we cannot have a copy of the conference report before our colleagues. In all fairness, I think I should say it is a difficult thing to try to comprehend it in this short period of time, but I would really only say that we started on Friday a week ago. I recall vividly that on Tuesday we left our respective staffs with a number of unresolved problems. Those staffs did not even conclude them until sometime around 3 o'clock in the morning. We were due back in, and we came back in, on Wednesday. So I can only say it would really be impossible for us to try to give the kind of full input that I am sure all the Members of the Senate would really like on this.

I think the respective staffs have done a herculean job in getting it available to us today and having it available for the

House yesterday. I might suggest that we are all sitting here waiting for the energy conference report, and it might come today, but I do not think we will have the slightest idea what a conference report on that bill will look like. We basically followed the text of the language passed by the Senate.

Mr. GRIFFIN. Mr. President, will the Senator yield before he leaves that point?

Mr. COOK. I yield.

Mr. GRIFFIN. I might say that earlier when I inquired, there was no conference report available in printed form, but I will say to the Senator from Kentucky that I have now been furnished by staff with a proof copy. It does not have the statement of the managers attached, but it does at least have the legislation that we are voting on in printed form.

I appreciate and realize the difficulties, but I think it would have been unfortunate if Members of the Senate were required to vote and they could not go anywhere to find out what they were voting on. Now that situation has been corrected, and I note it for the record.

Mr. COOK. I agree with the Senator from Michigan. I might say to the Senator that it is already Friday, and there is no way the entire members of the Cook family can be home for Christmas, so I will be here next week, and if the Senator wants to be here next Thursday to go over the whole report, I will be here to discuss it with him.

In all fairness, the basic text of the bill which was agreed to in conference was the discussion we had here on the floor of the Senate. I think the Senate was very successful in maintaining its position, except on the so-called freight car bill, and certainly the chairman of the committee has every assurance that there will be immediate hearings on it and an effort to get a vote for the establishment of a freight car program.

If I might for just a minute—and I request time from the Senator from Indiana—there is one thing I would like to discuss, and I have a short statement on something that has occurred which has really disturbed me. As the Senator knows, as a member of the Commerce Committee I have worked with him on this bill and I have worked with him on other bills. I think I did not miss any session of either the conference or the mark-ups on the bills. As a result of that, and not being on the subcommittee, I feel I have gained a knowledge that perhaps under normal circumstances I would not have had.

In looking ahead to the coming year, one of the events I anticipated with the greatest enthusiasm—to be shared with the people of Kentucky and our sister States in the Upper South and Middle West—was the inauguration of service by the Auto-Train Corp. between Louisville and Florida. This event promised the traveling public in my State—and in Ohio, Michigan, Illinois, Indiana, Tennessee, West Virginia, and elsewhere—the same efficient, safe, and energy-conserving rail transportation that is now available between Washington and Florida for people living along the eastern seaboard. It had been my expectation that Auto-Train's new service would be instituted early in 1974.

Much to my disappointment I now am advised that this attractive prospect has suddenly been severely dimmed. The reason lies in a decision of Amtrak to frustrate Auto-Train's plans by engaging in stalling maneuvers before the Interstate Commerce Commission. If Amtrak persists in this ill-considered and antipublic interest tactic there will be serious delays in Auto-Train service between Louisville and Florida, given Amtrak's motivation to take advantage of the protracted character of the Commission's adversary proceedings.

As a consequence, one of the most appealing recent rail transportation service innovations—with all that it holds in the way of benefits to the tens of thousands of people who travel annually between Florida and the central United States—is thus about to be strangled to death through calculated delay. And the culprit, let it be clear, is Amtrak, which was established by law to promote modern and efficient intercity rail passenger service—not to suppress new service innovations that are of value to the American public.

I understand some of their problems and what they consider the skimming off of profits. However, in all fairness, if they wanted to initiate the service, they should have initiated it. They did not do it. They gave no indication that they wanted to do it. Therefore, private enterprise moved in and requested that it be done and that they be allowed to do it in conjuncture with the Louisville & Nashville Railroad.

Amtrak's decision to contest, in a drawn-out legal battle, Auto-Train's application for the Louisville-Florida route is not just bad for the Nation's travelers. Something much more fundamental is involved, for a vital question of principle is at stake: the integrity of Amtrak in dealing with the Congress. The plain truth is that in now seeking to block Auto-Train's plan for service on the new route, Amtrak is repudiating assurances given to Congress only 2 months ago that it would not take such action.

Let me briefly explan the basis for my contention. During the consideration of the Amtrak Improvement Act—on which I was a conferee—concern was expressed by Members as to whether provisions of that legislation might permit Amtrak to block the initiation of Auto-Train's planned service from Louisville. Aware of this concern and of its possible effect on the outcome of the conference dealing with the legislation, Amtrak, through its representatives offered assurance that Amtrak would not immediately initiate service of its own or otherwise seek to delay Auto-Train's applications to the ICC with respect to the Louisville route provided those applications were promptly filed and diligently pursued—as they have been. The thrust of these assurances was further confirmed in a letter sent October 5 by Amtrak's vice president for Public and Government Affairs to a member of the conference committee—Representative KUYKENDALL, of Tennessee.

Mr. President, I ask unanimous consent that a copy of this letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. COOK. Mr. President, the substance of this letter was revealed at the time and it was a very serious factor in our deliberations. Among other things, the Amtrak letter implied that the Commission should move quickly on the Auto-Train application, something which it was well known could not be done if Amtrak were to contest the Auto-Train request for operating authority.

Along with other members of the conference committee and of the House and Senate I accepted Amtrak's representations as being in earnest and placed reliance in them. While we thus acted in good faith, Amtrak has now decided to act in bad faith, repudiating its earlier assurances and treating them as mere words to be put aside at its whim. I believe I am understandably outraged. Amtrak has simply not kept the promise it made to the Congress—a promise upon which we properly relied but which Amtrak has now seen fit to dishonor.

I am today asking Roger Lewis, the president of Amtrak, to reconsider his decision. Rather than frustrate Auto-Train's intention to begin service next year between Louisville and Florida, I am calling for Mr. Lewis to respect his company's word and to act in a manner consistent with the public interest and the Nation's acute transportation and energy requirements. Specifically, it is my hope that Amtrak will abandon its intention to oppose the Auto-Train application. Instead, I ask Amtrak to seek to expedite the Commission's disposition of this matter so that the travelers of this country can take advantage of Auto-Train's proposed Louisville service early in 1974.

In short, I am imploring Amtrak to act like the public service organization wnich Congress intended it to be and specifically to aid in the promotion of modern intercity rail passenger transportation. I am asking Mr. Lewis and the other officers of Amtrak to act like men of honor and statesmanship. This Nation's transportation problems are immense. Amtrak can and should play a positive role, but it hardly has a monopoly on new ideas. If Amtrak is to meet its responsibilities—if it is truly to serve the public and aid in the rejuvenation of rail passenger service—it must adopt a positive outlook and not direct its resources to the frustration of others who are attempting to meet our transportation challenges.

We took into consideration the total and complete participation of Amtrak in our discussions of this conference report—and I support the report. I must say that we talked in terms of the expectation that Amtrak could operate more select facilities; but I must say that I am not going to be very enthusiastic about its operation of them with this kind of equipment if that situation should prevail.

EXHIBIT 1

OCTOBER 5, 1973.

Hon. DAN KUYKENDALL,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN KUYKENDALL: Referring to our conversation of yesterday regarding auto-ferry service, it had been our intention since over a year ago to initiate auto-ferry service on the west coast as soon as the legal obstacles to such service were cleared away. We expected to do this by adding auto-ferry cars (converted coaches) on the rear of the three-days-a-week Coast Daylight-Starlight. This last June the Coast Daylight-Starlight began to be operated on a daily basis and its ridership zoomed. At the present time it is running every day virtually at capacity, and for this reason it could not handle auto-ferry cars. So we cannot initiate at the present time on the west coast the auto-ferry service we had intended. Neither can we at the present time initiate operation of a separate auto-ferry train on the west coast, for Amtrak does not now have the necessary sleepers, coaches, lounges and diners that would be necessary. So while we are blocked on the west coast at the present time, we are continuing to try to find ways of operating such a service there.

It had been our intention to initiation of auto-ferry service on the Chicago-Florida route by adding auto-rack carts on the rear of the present 13-car Floridian, and in that way add to the revenue of the train. If the conferees adopt the auto-ferry provisions of the House bill without change (except for a clarification of the meaning of "railroad") Amtrak will withhold initiation of auto-ferry service on the Chicago-Florida route until after the Commission has acted on Auto Train's application to serve that route from Louisville to Sanford, Florida, provided such application is filed within a reasonable time after the bill's enactment and thereafter diligently pursued. An overall time limit of 120 days after the Act's enactment for the Commission decision is essential because use of the Floridian for auto-ferry service was designed to make the Floridian sufficiently viable for retention as part of the basic route system.

Kindest regards,

Sincerely,

GERALD D. MORGAN,
Vice President,
Public and Government Affairs.

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

Mr. COOK. I yield.

Mr. HARTKE. The Senator from Kentucky is rightly concerned about this: We have had continuing frustration, as the Senator knows. I would hope that we could have the Amtrak people before us again at the earliest possible moment in the next session of Congress. In the meantime, I do not know how we can deal effectively with this process in the time remaining for this session of Congress.

Mr. COOK. The Senator is correct.

Mr. HARTKE. In the meantime, I do not anticipate that the service will be inaugurated by the company much before then. But I am sure that we will have the Amtrak people come before us.

I do not know whether the Senator is aware that a new board of directors is to be appointed. I hope that we can make Amtrak the kind of organization we want it to be—an operator of trains that run on time and that are attractive and clean.

Mr. COOK. When I turn on my radio and hear "Amtrak does it," I think they ought not to give the impression that they have any more than they do have; and also, I think that they ought to give the public the kind of service the public expects and that can be anticipated in other parts of the country. Amtrak ought to do this with enthusiasm, and not cause the public to be frustrated.

Mr. HARTKE. I quite agree with the Senator from Kentucky. I am sure that we will get into that subject at the next session of Congress.

Mr. COOK. I thank the Senator from Indiana very much.

Mr. JAVITS. Mr. President, this bill is naturally of the greatest importance to an area of the country which I have the honor to represent—New York—a State which has an enormous part of the country's rail system in the so-called Northeast corridor and is, of course, the strongest in terms of size and economic force in the whole area.

First, I should like to compliment the Senator from Indiana (Mr. HARTKE), the Senator from Maryland (Mr. BEALL), the Senator from Kentucky (Mr. COOK), and the other members of the Committee on Commerce for their efforts which brought this about, mothered, of course, by terrible necessity, because practically every road in the area is bankrupt, and also for the creativity which is shown by this report.

It should be noted that though this is a report dealing primarily with the Northeast rail system, the U.S. Railway Association has a much broader function and, indeed, this is the framework for the reconsideration and probably the rearrangement of the rail system of the United States. The consolidated corporation, of course, will operate in this area, but the general plan which will be implemented is provided for by this bill. I consider this extremely creative, and believe it will solve the problem that have for so long plagued these railroads and their customers.

Also, I believe the problem of local service was dealt with, especially in view of the energy crisis, in a very intelligent way, by offering the localities a substantial Federal subsidy, but relying heavily upon local initiative to deserve that subsidy, and limiting the subsidy in terms of time. I believe it leaves areas which determines that the consolidated system has left them out to their economic detriment an opportunity to come back in, as it were, on reasonable terms, where hardheaded financial analysis does not justify including them in the core of the system.

We in New York are also very grateful to the conferees, and particularly to the chairman, Senator HARTKE, and the ranking Republican member, Senator BEALL, for their appreciation of the need for carryover of important agreements in respect of the consolidated system. In our case, we have had agreements with governmental bodies primarily ranging from the underwriting of the problems of the Long Island Railroad and the Penn Central which serve an enormous area, and municipal problems like the transportation of waste materials out of a great city like New York, which has been attempting to contract with carrying roads. These agreements are of overriding importance and I am pleased to see they will be preserved. I also note that this carryover in no way affects the status of other leases or agreements not specifically covered by the carryover provision.

I wish to comment also upon a few other things, Mr. President, in my particular relationship, first as a lawyer and second as the ranking Republican member of the Committee on Labor and Public Welfare.

On the legal side, I might say to the Senator from Indiana, that the concept of a special court has been very creative. Our experience in the environmental field indicated what a mess can be made of the best laid plans by a diversity of legal proceedings all over the Nation, with different theories canceling each other out very often, and not resolvable until you get to the Supreme Court, and sometimes not even then. Here, by exercising the authority we first exercised in the Judiciary Act of 1789, we have provided for consolidating these proceedings and appointing a special court for the purpose. I think it is very, very gifted position, for which the committee is entitled to great credit.

Second, as the ranking Republican member of the Labor and Public Welfare Committee, I have studied with great interest the problem of the displaced workers, and how they were dealt with.

I have great sympathy for the views of our colleague, the Senator from Maryland (Mr. BEALL), who felt it was altogether too costly in proportion. His humane views and his love for his fellow man and the worker, I am sure, do not yield to those of anyone else, but he just felt that in relation to the financial obligation being dealt with, it was just too heavy a burden.

It is a fact that these are, on the whole, very broad provisions, and they are going to be very costly. But nonetheless, there is creativity in not continuing on a salary basis, with the overhead which is incident to it, and the artificiality of having people work when there is no work, such as we had for years with certain operating railroad employees, which is very debilitating to them and debilitating to the whole labor system. So, although it is expensive—and it is very expensive—experience has shown that a one-shot termination operation is, on the whole, most economical, rather than to continue a framework within which people allegedly work but really do not.

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

Mr. JAVITS. Let me just finish my thought, and then I shall be happy to yield.

I have a suggestion for the committee, if I may have the attention of my colleagues, on this subject. There is an analogy. The analogy is the so-called black lung legislation. There we provided for evils which had never been dealt with, the illnesses of the workers caused by their employment which were not covered by workmen's compensation. It represented a big bill for the United States—

a very humane operation, but a big bill for the United States. But in the dynamics of that, we found that administration was supremely important in determining costs.

So I would hope—and I express this view to my colleagues—that we will not pass the bill and forget about it. I am afraid if we do that, we may find the costs pyramiding in a way which is quite unacceptable, even with the dollar limitation contained in the bill. I hope very much we will give the matter continuing close monitoring, and I believe the mere fact that we will be looking over the shoulders of the administrator will, in itself, be a very healthy safeguard as to what its ultimate costs.

I yield to the Senator from Maryland.

Mr. MANSFIELD. Mr. President, will the Senator yield briefly to me?

Mr. BEALL. I yield.

SOCIAL SECURITY AMENDMENTS—ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the pending business is disposed of, the Senate turn to the consideration of Calendar Order No. 637, H.R. 11333, to provide increases in social security benefits.

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

Mr. MANSFIELD. I understand there is a very good possibility there may be a yea-and-nay vote on the conference report.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 1559. An act to assure opportunities for employment and training to unemployed and underemployed persons;

S. 1983. An act to provide for the conservation of endangered and threatened species of fish, wildlife, and plants; and for other purposes; and

S.J. Res. 182. A joint resolution extending the dates for the transmission of the 1974 Economic Report and the report of the Joint Economic Committee.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore.

REGIONAL RAIL REORGANIZATION ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of 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. 9142) to restore, support, and maintain modern, efficient rail service in the Northeast region of the United States; to designate a system of essential rail lines in the Northeast region; to provide financial assistance to certain rail carriers; and for other purposes.

Mr. BEALL. Mr. President, I appreciate the remarks of the Senator from New York about my concern about the labor portion of the bill. I hasten to point out, however, that my primary concern was not with the cost. The cost has been dealt with in the Senate bill and now in the conference by placing a cap of $250 million on the amount it will cost the Federal Government.

My concern was not that these people be taken care of; I think there is every obligation on our part and on the part of the new corporation to compensate adequately those who will be displaced. We certainly owe it to those people to see to it that they do not lose economically as a result of some action we have taken here.

My concern was with the fact that in this bill we are enacting into law a negotiated collective-bargaining investment. I did not think this was a proper role for Congress to take, and that is why I sought to have it removed from the bill. I thought this matter should be negotiated between the new corporation and the labor unions involved. I did not think we should enact into law an agreement applying particularly to the situation in the Northeast corridor, and thus make it applicable all over the country.

That was the reservation I had about that particular provision of the bill. Also, I had some reservation about the precedent established by the new provisions that apply to this collective bargaining agreement. In other words, I was concerned that other people who have been caused to endure some hardship as a result of reallocation of national priorities might, at some future time, consider this a precedent set by Congress, and come to us and ask for the same kind of consideration we gave in this bill.

Those were my reservations. I had no reservation about the fact that the people should be taken care of, and as a matter of fact I was not all that concerned about the total cost, because that had been taken care of.

Mr. HARTKE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. HARTKE. I think the Senator from New York has put his finger upon a very important aspect of what we are eventually going to do in this field. I would not want to leave the impression that we have dealt with this matter in its final terms. I think anyone who would say that would really be misleading the Senate and misleading the country, because we have some agonizing decisions coming down the road about 18 months ahead of us, and not only are we going to have some agonizing decisions, but there will be some agonizing decisions that will be made by this Association, which will be felt by every Member of Congress and everyone else.

These decisions will be not only in the field of service but in the field of labor. I hope that the Committee on Labor and Public Welfare would take part in dealing with this matter in its broadest perspective. Very shortly we will take up in the Finance Committee, which is not the jurisdiction involved here, a similar problem in relation to individuals displaced as a result of a trade law which brings up many of the same problems. The problem is, in the area of employment, what to do with people when, suddenly, through no fault of their own, by reason of their Government's taking some affirmative or negative action, they find themselves ready for the junk heap of human misery, with no opportunity to be retrained or to find any gainful employment, losing their health benefits and their pension benefits and, most of all, losing their dignity. It is an extremely important matter, probably one of the most important matters Congress faces.

We have done the best we can to deal with that problem in this legislation. In a way, we have dealt with it rather uniquely. I am not unaware of the approach of the Senator from Maryland, but that is behind us, now, until the next step comes up again.

Mr. JAVITS. I am delighted to have this colloquy. I shall recommend to the Senator from New Jersey (Mr. WILLIAMS), who is the Chairman of the Committee on Labor and Public Welfare, that the committee hold hearings on this whole question of severance and what should be its connection with age and what should be its connection with retraining. For example, payment of moving expenses, which is an interesting idea. Also, what should be its relationship with adjustments, such as work rule adjustments, which is again a hard nut in the railroad business and which has not been encountered nearly to the degree it will be, now that we have a pattern by which people can be compensated for whatever they have been forced to give up.

Finally, I would like to point out a precedent. In order to deal with railroad strikes, we did with legislation pass on certain agreements which had been arrived at by collective bargaining. That was a precedent in an emergency, but it was a precedent and this, too, is an emergency, although of a different kind.

I know that we want to conclude this debate. Again I think it is a creative beginning, and this is a well thought out report. I think that the whole country must be grateful to Senators HARTKE, BEALL, COOK, and all other Senators who participated.

Mr. HARTKE. I want to express my appreciation to the Senator from New York. I am very grateful to him for making sure that the transportation facilities around that wonderful city may have a chance to survive.

Mr. JAVITS. I thank my colleague from Indiana.

Mr. ALLEN. Mr. President, will the Senator from Indiana yield for a few questions?

Mr. HARTKE. I yield.

Mr. ALLEN. I wish to commend the distinguished Senator from Indiana (Mr. HARTKE) and the distinguished Senator from Maryland (Mr. BEALL) and the distinguished Senator from Kentucky (Mr. COOK), and the committee, and the conference committee, for the hard work they have put in, in trying to resolve some of these problems.

Frankly, I did not support the bill when it passed the Senate. If there is going to be no objection, I should like to request, at the proper time, a yea and nay vote in order that I might register my protest by a negative vote.

However, there are two or three ques-

tions I should like to ask the distinguished Senator from Indiana about the conference report, inasmuch as we do not have anything other than a printer's proof sheet, with no explanation of the various provisions of the bill as agreed to by the conferees.

First, I should like to ask, how many miles of track are in the systems of the various railroads being taken over by this corporation—some 20,000?

Mr. HARTKE. The total amount of mileage involved in the railroads involved directly probably exceeds 26,000 miles. The biggest portion is the Penn Central, of course, which has an approximate mileage of around 19,000 to 20,000. I want to point out that it is sometimes rather difficult to get exact mileage.

Mr. ALLEN. How many miles would it be contemplated that the new corporation, this Government-financed corporation, would reduce the mileage to, and when?

Mr. HARTKE. First, let me give the Senator the "when," which is easier.

The "when" really comes basically in about 18 months down the road, when the final system plan will be developed by the association and submitted to Congress. The association is charged with that responsibility. This is a question asked not alone by this Senator but by practically every other Senator, to find out as best we can how many miles are contemplated.

For me to give the Senator a firm figure would be wrong because there is no such figure available. That was the essence of my original objection to the measure itself. I wanted to establish the amount of mileage in the system itself first.

Mr. ALLEN. I wish the Senator had held out for that proposition.

Mr. HARTKE. Let me say to the Senator from Alabama that the problem with holding out was, that if I had held out, I would have only stalled the process and ultimately we would have had the railroads down here asking us to bail them out with emergency legislation, and maybe by Christmas—more than likely around the end of February, dealing with it on an emergency basis or something, so that we would have been throwing some more money, in my judgment, plain down the rathole without a well-thought-out piece of legislation such as the one before us today.

Having said that, it is contemplated that the mileage will be between a minimum of 15,000 and a maximum of 19,000. That is based on the best estimates I could obtain.

Two factors are involved which put a limitation on the amount of mileage likely to be in the new system. One is a limitation on the amount of money which can be expended by the Government for displaced persons. That is $250 million. That is a limit which tends to hold the mileage at a certain level. On the other hand, the $1,500,000,000 authorized for loans and all the other matters involved will have a tendency to shrink the system, simply because of the fact that, on the basis of every estimate we have, if we are going to expand the system or to keep the present system, it could not be done for that amount of money.

Mr. ALLEN. What occurs to this Senator is that it rather looks like, to him, as though we are freezing in this new system the very same conditions that resulted in the bankruptcy of the railroads under private ownership.

Mr. HARTKE. I hope the Senator is wrong. I do not think the Senator is right. A freeze is not anticipated by the people who have been participating in the bill Quite the contrary is the intention; that is, basically to come up with a core system of essential services. That core system is to be a viable, financial, economic, and a servicable organization. That is the intention. That is the charge to the association. That is the goal and we have set the standards for attaining that goal.

To that extent, the bill is done as well as it can be done, considering the amount of factual information which still must be determined. In addition to that, there is a provision in the bill for taking care of abandoned routes on a State participation basis, on a local participation basis, and on a shipper participation basis as well. That is not new. That idea probably was put forward last time by Senator BELLMON, of Oklahoma, on a participating level, following the outline generally, of the highway act, that there is participation by the State and local communities for a certain amount, with some participation to a maximum amount by the Federal Government.

Mr. ALLEN. This is a Government financed corporation. To what extent would it be able to abandon lines with greater ease and facility than the private ownership lines?

Mr. HARTKE. Well, it depends on where we look. Let me try to explain what I think the concern of the Senator is. Under the legislation, there is going to be, for all practical purposes, a rather arbitrary action taken in that there are probably going to be some lines abandoned hastily or quickly and they will be thrust upon us. That was the agony which I said Congress is going to have to face when that system all of a sudden comes out—for example, Indiana has the second largest mileage—when a certain route is taken off the core system; and I am faced with the proposition of being the author of legislation which puts some people off the railroad.

Having said that, however, let me say that unless this approach is taken, all the benefits of this legislation would be eradicated. In other words, the whole thought was that, hopefully, we would have a rationalized system which would be economically viable and would present to the Nation the essential services that the Midwest and the Northeast need.

Mr. ALLEN. Would it not be harder for a Government-owned corporation—Government-supported, rather than owned—to abandon unprofitable lines than it would a railroad under private ownership trying to make money for its stockholders and bondholders? Is not a problem being created rather than one being solved?

Mr. HARTKE. Quite the contrary. We are solving a very difficult problem in one area. I am not saying that it is one with which all the people are going to be satisfied.

The present procedure for abandonment under the ICC does provide for a certain number of safeguards which are not in this bill. In order to provide for some type of review, we have created a special court which can take care of some of these matters. But under the normal procedures of the Interstate Commerce Commission, I think the amount of time which would be involved to deal with the abandonment which is contemplated at this time would be so long that when you got to the end result, you would not have any of these railroads in a position to be rehabilitated without an even more substantial infusion of Federal money.

When I am talking about a substantial infusion of Federal money, I can see that if this matter were delayed a couple of years, the cost of just maintaining the service and not upgrading it, and probably seeing it deteriorate further, would probably exceed the cost of this bill. We either do what we are doing today or something like it. Otherwise, we will be doing the same thing piecemeal in order to keep the country going, or nationalize the railroads. That could be much more expensive.

Mr. ALLEN. I see very little difference between what is being done and nationalization. It is the taxpayers' cash that is involved.

Mr. HARTKE. There is a great deal of difference between this and nationalization, not only in the procedure but also the cost. The cost of nationalization, at the barest minimum—and I think the Senator from Maryland will agree—is $3 billion just for property acquisition. There are estimates as high as $12 billion. In the proposed legislation, the total amount of money involved from the Federal Government at this time, in cash, is $558.5 million.

Mr. ALLEN. I am glad the Senator said "at this time."

Mr. HARTKE. That is for 4 years. That is not one of these "iffy" propositions.

The other money is going to come from guaranteed obligations. If the theory is right and the thesis is correct, ultimately they will be repaid. I think that can be done.

There are two other courses of action we could take. One alternative is to continue to spoon-feed taxpayers' money into this operation over the years on an emergency basis and continue this bankrupt state of affairs. The bankruptcy court has absolutely indicated that they would liquidate the railroads unless some type of emergency aid or reorganization plan came forward. The trustees of the Penn Central have stated to the court that without Federal assistance, no financial reorganization is possible. The court looks at those assets and says, simply, "Either the Government moves, or I will liquidate the railroads."

Mr. ALLEN. How many bankrupt railroads are involved?

Mr. HARTKE. There are 7 class I and 1 class II, and about 15 smaller

railroads which went into bankruptcy during the last 6 months. In other words, we are dealing with a total of approximately 20 bankruptcies—really reorganizations to be precise—at the present time.

Mr. ALLEN. This program is not taking over a single healthy line, then?

Mr. HARTKE. No. As a matter of fact, we worked closely with the C. & O., the B. & O., and the Norfolk & Western, which are the principal private carriers making money in this area. In spite of the fact that they feel that it would represent a distinct disadvantage to them competitively to have financial assistance for a competing railroad, they have agreed in substance to the approach set forth in this legislation. There are other railroads in this area. One very prominent railroad in the State of Alabama is the Southern.

Mr. ALLEN. I ask this question of the distinguished Senator: Why is it that the southern railroads, in an area with less population and less industrialization, apparently, by and large, are prosperous, paying their bondholders, paying their stockholders; whereas, in an area with greater population and greater industrialization, there are 20 bankrupt railroads that have to be taken over by this Government-supported corporation?

Mr. HARTKE. There probably are a number of factors. We have held about 10 days of hearings this year, trying to find out what happened, what was the cause of the default of the Penn Central. One reason is that there never has been a Pennsylvania Railroad system. That is a name without any relation to fact. There is a conglomeration of a bunch of small railroads which have been built.

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

Mr. HARTKE. I yield.

Mr. COOK. I think it is interesting to note—and I say this to the Senator from Alabama merely to help the Senator from Indiana—that the whole Penn Central system has about 130 years of operation under its belt and has more than 100 acquisitions of different lines—short lines, major lines, and so forth. So one can get an overview of just what a mess it really is and what a parameter it represents of all the facets within the Northeast, which spreads from the Mason-Dixon Line to Chicago.

Mr. ALLEN. That is one of the points the Senator from Alabama is making—that the corporation would be taking over a maze of railroads that have not operated profitably, and there is no indication and no likelihood that they ever would operate profitably. We are just freezing in the very conditions that have caused the bankruptcy of 20 railroads. Is that in the public interest? That is what I am trying to find out.

Mr. HARTKE. I understand the point of the Senator from Alabama. I can assure him that if I thought that would be the end result, or even a serious possibility, I would not support the proposed legislation. I have my own reservations. But that is not one of them.

I really am convinced that this is the only alternative to nationalization of the railroad system. I am convinced that this approach is the least expensive to the taxpayer. I am convinced that the end result is not going to be pleasing to everyone, but I think it will be much more pleasing than any alternative I have seen from any source.

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

Mr. HARTKE. I yield.

Mr. ALLEN. I have the floor.

Mr. BEALL. I want to respond to the point raised by the Senator from Alabama, which I think is a good one. I share the same concern of the Senator.

One thing this bill does—there are things it does not do—in my opinion, is that it presents an opportunity to rationalize the system of railroads in the northeastern part of the United States, so that the duplication can be eliminated that has caused the economic distress under which they have been living for the last quarter of a century. It will enable us to get rid of many of the unprofitable lines.

Mr. ALLEN. I do not see that there is any guarantee that is going to take place. I believe the Senate adopted Senator MONDALE's amendment which provided that there could be no line abandonment for 2 years.

Mr. BEALL. That was eliminated in the conference.

Mr. HARTKE. That was eliminated in the conference.

Mr. ALLEN. I believe the Senator stated that there could be no abandonment for some 18 months.

Mr. HARTKE. That was eliminated in conference.

Mr. ALLEN. I understood the Senator to say a moment ago that there would be no abandonment for 18 months.

Mr. HARTKE. No. I said there would be no abandonment in the region while the final system plan is being formulated.

Mr. ALLEN. In other words, there is a moratorium on abandonment for 18 months.

Mr. HARTKE. For the region, that is correct. That is absolutely necessary. You cannot let the lines be abandoned and then try to put them back in business without a great deal of expense. That is one of the problems we are faced with.

Mr. ALLEN. I suppose private ownership would know if some of the lines should be abandoned. Should not this knowledge and expertise that the bankrupt railroads have be passed on to the public ownership people?

Mr. HARTKE. The whole essence of this plan is that you have a system in which somebody will make a decision on what you are going to have, what you are going to keep, and what you are going to take out. There are about 26,000 miles in the Midwest and Northeast that are affected. They could be cut back to, perhaps, 15,000 miles; probably it would be in the neighborhood of 18,000 or 19,000 miles. That is an estimate.

Mr. ALLEN. That would take the ICC on that, would it not?

Mr. HARTKE. No, that is the very essence of the plan; to avoid that operation. If that were the procedure followed, there would be no hope. The bill provides a procedure for expedited abandonment in the region.

Mr. ALLEN. Does the Senator mean they can abandon lines on their own initiative?

Mr. HARTKE. That is correct if the lines are not part of the final system plan.

Mr. ALLEN. Provided they guarantee the salary to age 65 of any employee who worked as much as 5 years. I guess everyone would like to get on a pension plan of that sort.

Mr. HARTKE. I think there is a lot of misunderstanding. There is $250 million in taxpayer money in this measure to take care of displaced workers. I think the Senator from Maryland would agree that as far as humanly possible we have nailed down taxpayer liability to $250 million.

Mr. BEALL. That is correct, but I am not satisfied that at some future date people will not be coming back and saying, "That is not enough to honor this commitment." In the context of the bill there is a $250 million gap.

Mr. ALLEN. I do not understand why there is such a liberal separation policy. For instance, a man might start working for the railroad at the age of 20, and continue until he is 25 years of age. Then he is laid off and he would get full pay, fringe benefits, and future raises for 40 years; as compared with the cotton mill worker in Alabama or the steelworker or railroad employee who gets laid off because there is no work and he gets 26 weeks of unemployment compensation. I would like an explanation.

Mr. HARTKE. I will be glad to do so. I did so on the floor and I will explain it again. The bill offers protection to railroad workers who will be displaced by virtue of this legislation. At the present time they have rights through collective bargaining under the free enterprise system that are greater than those that would be afforded them in the legislation.

Mr. ALLEN. That is my point. The legislation freezes in these various rights and conditions that have broken these railroads at the present time.

Mr. HARTKE. Let me say that the other side of the coin is that you can vitiate the contract, let them go to a court and sue, but there is no way you can take that contractual right away from them.

Mr. ALLEN. They would sue in a bankruptcy court. We have read in the newspapers about this giant corporation, the Penn Central Railroad, a $7 billion corporation. What provision is made for continuing to carry this tremendous bonded indebtedness of the various railroads? Is that wrung out through the bankruptcy courts so that will not be carried by the new corporation?

Mr. HARTKE. We are providing that the creditors of this corporation would be required to take common stock in the new quasi-government operation. In other words, they are exchanging their present security interest in the rail properties for common stock in the new corporation.

The railroad properties then become the properties of the new corporation free and clear of liens and encumbrances.

In other words, the assets are being transferred and the rights are being changed. The nonrailroad property will remain in the bankruptcy court to be dealt with by them. One can talk about what is available if the railroad is liquidated and put through the wringer, but even then the chances of these creditors getting their money is relatively slim, and this country cannot afford cessation of rail service while the railroads are put through the wringer. So what, in effect, is called the "cram down" theory forces them to accept this kind of settlement and judges have ruled that this is fair. If we did nothing while continuing to mandate rail service, there is the distinct possibility in view of the prior action of Congress that a number of these people could make a claim against the Government which could be sustained in the Court of Claims.

If the Senator will recall, we met on this matter in February. We had an emergency session of Congress in which we forced them to continue to operate, even though they were in the bankruptcy court. I am not saying that as a matter of law they have an absolute claim but I would be glad to represent them on a contingency fee basis if we do not pass this legislation. Even if it were a small contingency I could go ahead and get a fee that would probably be the biggest that any lawyer has ever gotten in the United States. The claim would be for relief under the due process clause of the Constitution which prohibits making a man continue to dissipate his estate through Government action.

Reorganization is supposed to protect the estate from unconstitutional erosion. If you go in and force them to continue to operate any longer without taking legislative action, you have, in effect, taken property without due process. The way to correct it is to go into the Court of Claims and make the claim. I think there could be a declaratory judgment, and the only question would be the amount of money.

Mr. ALLEN. The way to do that would be to let the railroads go through the bankruptcy process and emerge as a new corporation, taking over all the others; that being a corporation without Government subsidy.

Does not the Senator think that a line could exist and make money in the Northeast without a Government subsidy if it were able to pick and choose the lines it wished to operate in the Northeast?

Mr. HARTKE. I would like to say yes, but there are too many imponderables, too many ifs, and it is such a hypothetical situation I could not give an answer.

Mr. ALLEN. I thank the Senator.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. HARTKE. I am glad to yield to the Senator from Washington.

Mr. MAGNUSON. Mr. President, I merely wish to add to the record on this bill my compliments to the members of my committee, under the able leadership of the Senator from Indiana in working out what seems to be an acceptable solution to this series of problems.

I do not think that in all the years I have been around transportation or on the Committee on Commerce we have had a more difficult and more complex bill. We spent hours, days, and weeks on this bill on different occasions, on different proposals as to how we would arrive to what might be a solution to the problem.

I do not think that during the debate on the bill and during the debate here today anyone has suggested that this is going to be a perfect solution. We are feeling our way in the best way we know how. We have high hopes it will be a solution.

I also want to say, and I think the Senator from Indiana will join me, that this probably was the most difficult staff job we have ever given any members of our staff, both in the Senate and in the House.

It has been a long, difficult road. We are highly hopeful that we have set the guidelines to handle this problem, but there are going to be a lot of problems in the future.

We do know—and we made a point of this—that time is of the essence, that something had to be done this session. As a result, the subcommittee and the Commerce Committee devoted many and long hours on this subject. It is highly complicated. There is an old cliche about Philadelphia lawyers. Philadelphia happens to be the home port of this problem. I was thinking it might have taken 200 Philadelphia lawyers to figure out all the different problems and complexities in this bill, and I do not know how they would have accomplished it.

We are about to send to the White House the best solution that we have been able to arrive at to take care of this problem. We cannot know what the end result will be, but I know it vitally affects the economy of the United States and we need this legislation now.

I want to congratulate all of those who were involved in this effort. The Senator from Indiana spoke a moment ago about a contingency fee. If he were on the case the outcome in his favor would be assured; his fee would not be "contingent" at all. He and the Senator from Maryland probably know as much about this subject as anyone, and I would think they might be asked to serve on the board if the Senate duties did not prevent them from serving.

Let me conclude by saying we have done the best we can, and we think the end result will be all right.

Mr. LONG. Mr. President, I want to congratulate the very able Senator from Indiana for the many, many long hours and the diligent efforts he has devoted to the problems of the railroads of this country. This is the culmination of a great deal of the Senator's efforts. No Member of this body has been more diligent or more energetic in trying to solve the extremely difficult problem with which this Nation has had to grapple than has the senior Senator from Indiana, and his leadership in this area is particularly appreciated.

In addition to that, I think it should be added that Mr. Lynn Sutcliffe, who sits beside him, has burned a great deal of midnight oil in helping the Senator and the committee to work out the compromise involved in the conference report before the Senate.

Mr. Sutcliffe has been assisted in his efforts by a number of other members of the Senate Commerce Committee staff on both sides of the aisle: Art Pancopf, Tom Allison, Paul Cunningham, Mal Sterrett, Bob Joost, John Kirtland, Dave Clanton and many other people.

There is one area in this bill in which I am greatly interested. Because I believe a plan for employee stock ownership can do much to eliminate the conflict between management and labor over various conditions of employment and to help to provide the type of cooperation that is so necessary in the joint endeavor that is needed to make any major enterprise succeed, I favor the provisions in the bill before us referring to this subject.

I have a statement to make discussing the advances made in the employee stock ownership plan, which I believe is the greatest advance Congress has made in this area. I am particularly pleased that at least part of it emerged from the conference. I thank the Senator from Indiana, as well as the Senator from Maryland, the Senator from Kentucky, and the Senator from Washington, for their assistance in seeing that this measure was at least retained to the extent that it could be, because I believe in the long run employee stock ownership will be one of the ways that will help eliminate and dissolve some of the insoluble problems that could grow between management and labor.

When people plan for failure, the odds increase that they will fail. Similarly, if we assume that the rail systems of our Northeast and Midwest corridors cannot be operated at a profit and therefore neglect to provide sufficient profit incentives for workers, they are unlikely ever to earn any profits, the "wages of technology."

Presumably, reorganization of the Penn Central and the six other presently bankrupt railroads being assisted under the Rail Services Act of 1973 is intended to wipe the slate clean, to allow these rail systems to correct mistakes that led them into financial collapse and to enable them to start anew and continue on a profitable basis.

In business, the formula for making a profit is simple: maximize revenues and minimize costs. Being so capital-intensive and inherently efficient and low-cost energy users compared to competitive modes of transportation, railroads have historically been natural profitmakers. Only with one absurdity piled on another—mistakes which have been well-documented and need not be repeated here—could railroads have failed. But insufficiently documented and still uncorrected is the century-old and underlying cause for today's railroad failures: Their continued concentrated ownership by a relatively self-perpetuating group of wealthy absentee capital lords, alongside their day-to-day operation by propertyless managers and workers, the latter

conditioned to depend exclusively upon paychecks to meet their income needs, increasingly antagonistic to present owners and the profit system generally, and now in desperation prepared to replace welfare recipients in the line for taxpayer subsidies and bailouts.

Clearly, not having the same opportunities to accumulate growing ownership stakes as the few who own most of today's railroad stock, workers have had no incentive to make the simple formula for profits work. In fact, the ownership system was wired for failure from the beginning. It was structured to lead to ever-decreasing revenues and services and ever-increasing, non-market-disciplined costs. And if our railroads fail to build substantial ownership incentives and the discipline of the profit system into its workers in the future, they will never again earn a profit. Nationalization will inevitably follow. And, since railroads have always been pacesetters in our industrial network, in the best and worst of times, we will have laid the foundation for eventual nationalization of our airlines, trucking, agriculture, mass media, telephones, energy development and production, manufacturing, and the rest of our enterprise system. Everyone will be on the Government's payroll.

In S. 2767, the Senate offered a new ownership alternative, an employee stock ownership plan or "ESOP", designed to correct defective corporate finance and concentrated ownership patterns in our railroads. Not enough of the conferees, particularly our House colleagues, had sufficient opportunity to study and fully understand this innovation and its far-reaching implications for saving our railroads. Organized labor and railroad management also need more time to acquaint themselves, the workers, and the public generally on this new thrust. The ESOP, however, still remains a key feature of this legislation and will be studied and, hopefully, fully implemented by the railroads covered by the final bill.

The ESOP, a unique tax-free financing method, would enable the entire railroad work force to purchase as individuals, without deductions from their paychecks or savings, newly issued common stock on credit tied to the capital requirements of the new system and secured by its future profits. Each worker would thus be placed in a position where his own efforts toward cost minimization and increased production would directly influence the size of his dividend checks and the value of the capital estate which he can acquire during his working lifetime. From the public's standpoint, we could reasonably anticipate that strikes and slowdowns, antiquated work rules, featherbedding, resistance to automation, and unreasonable wage demands—all seemingly unsolvable problems up to now—would gradually disappear once workers are placed in a position to realize how these activities not only work against the interests of consumers as a whole, but also against their individual self-interests. If the railroads cannot become profitable, then the employees will have no one to blame but themselves. But they must first be placed in a position and given maximum incentives to make the system profitable.

I think it will be a grave error for the courts, the administrators of this legislation, and the proposed United Rail Corporation to hand over automatically all new common stock to existing creditors and to delay in building substantial equity ownership into the railroad work force. How fast and how much ownership we build into workers will directly determine the odds that we can avoid nationalization. There is still enough flexibility left in the conference bill, in my opinion, to unite, through fair and widespread ownership sharing, the interests of individual workers, their labor representatives, management, and existing creditors. Only in this way can Congress demonstrate that the misguided and short-sighted notion that railroads cannot provide low-cost, quality services at a profit, will not become a self-fulfilling prophecy.

Mr. HARTKE. Mr. President, I want to say to the Senator from Louisiana that this approach is not ony a new approach, but it is a plan to make our democratic system work for people who work for a living, and I thank the Senator for his interest and efforts.

Mr. LONG. The Senator shares with me the thought that our principal objection to the way in which free enterprise is operated is that not enough people own it. We want to spread the ownership system among those who help build up this country. I think this proposal is the greatest advance in that area that has occurred. I am hopeful that the committee's work in that regard will bear fruit. At least we have a plan in which it can go forward.

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

Mr. HARTKE. I yield.

Mr. MAGNUSON. One thing I forgot to mention. We have a freight car shortage in the United States which is getting worse and worse and worse, and even the success of this plan may finally depend upon how many frieght cars, rolling stock we have.

I appreciate that this is a Northeast regional plan, and that the freight car bill which the Senate committee reported and the Senate passed was a nationwide bill, and there may have been some question about whether that should be a part of this bill.

The Senate Commerce Committee put it on the bill at my request, but I think it should be separate, anyway. The plan we have should be nationwide.

For some reason, the House has held up the freight car shortage bill, which should be a separate bill, waiting apparently, to pass some sort of omnibus surface transportation bill. It is being held hostage over there. I think, in the conference committee, we made that quite clear.

I want to ask the Senator from Indiana and the Senator from Maryland if it was not our distinct understanding with the House conferees and the House committee that we received a pledge of the House to act on the freight car legislation as a separate bill early in the next session.

Mr. HARTKE. The Senator from Washington is exactly right. There was a distinct pledge, and the only way it could have been made more effective was if it had been made in blood.

Mr. MAGNUSON. I just wanted to make sure my understanding was covered.

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

Mr. HARTKE. I yield.

Mr. PELL. I want to congratulate the Senators from Indiana, Maryland, and Kentucky, particularly the Senator from Indiana for all his hard work and mastery of problems of railroad transportation and of high-speed ground transportation in general.

Coming as I do from an area that has only 1½ percent of the land area of the United States, yet contains one-fifth of the population and almost one-third of the wealth of the Nation, namely the Northeast corridor portion, or megalopolis, I am particularly interested in the arrangements that have been made for the movement of our people, because we are really one huge city.

In megalopolis we have almost the same conditions that apply to intracity transportation in other parts of the country. We are one big city in the corridor, where all elements are intertwined.

In that regard, it is my understanding that my senior colleague (Mr. PASTORE) and the Senator from Indiana (Mr. HARTKE) took a lead in the conference to make sure that some $500 million has been earmarked for the upgrading of the rolling stock and the tracks in megalopolis. Is that correct?

Mr. HARTKE. The earmarking is not specific, but it is pretty clear in the report that that is what it is for. In addition to that, because of the fact that that we were able to work out some distinct understandings with the Department of Transportation which we had not been able to work out before, we have assurances from the Department of Transportation that they are going to move immediately to upgrade the corridor.

What we have done here is, in a way, maybe sort of something in the nature of an American Christmas. We had come to a place where we had such divergent views and such differences of opinion. However, they have now been brought back together, and the Department of Transportation has expressed not only a willingness, but also an eagerness, to proceed with this matter.

The Senate should recognize the yeoman work done by the Senator from Rhode Island (Mr. PELL) in outlining many of these problems before they were being considered in this present form, and even to the extent of including them in his book.

Mr. PELL. Mr. President, I thank the Senator from Indiana for his kind remarks. That will mean that the money will not only be used for rolling stock, but also for the rails.

Approximately $500 million has been included. I believe that approximately a half hour could be taken off the time of the present Metroliner schedules. If that

money is spread over the whole of megalopolis, it would have the effect of reducing the time of each major division of the trip by a half hour, making it 2½ hours from New York to Boston and 2½ hours between New York and Washington.

Mr. HARTKE. It will be 2 hours from New York to Washington, and 2½ hours from New York to Boston by 1976.

I would like to see the Senator from Rhode Island on that lead train.

Mr. PELL. Mr. President, I shall look forward to it. And I thank the Senator for what he has done in bringing to reality what was a dream, a vision of improved high-speed railroad passenger service.

Mr. MAGNUSON. Mr. President, with reference to complimenting members of the committee from the areas involved, the Senator from Rhode Island (Mr. PASTORE) and the Senator from New Hampshire (Mr. COTTON) contributed a great deal to all of these matters before the committee.

Mr. HARTKE. The Senator is correct.

Mr. President. I have no further remarks. I am ready to vote.

Mr. KENNEDY. Mr. President, I want to express my strong support for the conference report on H.R. 9142, the Regional Rail Reorganization Act of 1973 which seeks to confront both the rail freight and rail passenger transportation needs of the Northeast and Midwest.

This measure provides emergency funds to insure the continuation of rail service along the seven rail lines now facing reorganization. Equally important, it establishes a mechanism to finance the improvement of the rail passenger network in the Northeast corridor.

At a time when the energy crisis has made obvious to all the need to maximize our support for transportation modes that are efficient energy users, the passage of the bill now before us is of the highest priority.

In that regard, I would like to comment in detail on the actions taken by the conference on the Northeast rail passenger system.

For the past decade, it has been clear to those of us who have been witnessing the growing transportation crisis in the Nation that we were failing to effectively develop the capacity for rail passenger service in the Northeast.

It was under President Kennedy we began the first efforts to study how best to achieve the goal of improving rail passenger service in the Northeast corridor where 20 percent of the Nation's population resides. Under President Johnson, the study of the Department of Transportation began its work. And under President Nixon, that report finally was submitted to the Congress in 1971.

That study concluded that high-speed rail passenger service was not only technologically feasible but economically feasible as well. It concluded that the high-speed line from Washington to Boston would be the best way to meet the rising intercity traffic demand and one which would be profitable in the very short-run.

Yet, despite recommendations to request the funds to start that project from experts in the Department of Transportation the administration always hesitated at the last minute.

In this Congress and in previous Congresses, Senator PELL and I have cosponsored legislation along with other Senators in an effort to move the project forward.

Unfortunately, it has not been until the current energy crisis confronted the Nation with the necessity for the most efficient use of available fuel that we detected a recognition of the value of this project.

I want to commend the chairman of the committeee, Senator MAGNUSON, the chairman of the Transportation Subcommittee, Senator HARTKE and Members on both sides of the aisle for their recognition of the rail passenger needs of the Northeast corridor.

Many supported bills to complete the corridor project. These measures had the support of Governor Sargent of Massachusetts and other New England Governors.

And the committee adopted the provisions contained within three amendments I submitted in November to the bills then before the committee. Those amendments assured immediate implementation of the DOT study provisions, including the acquisition, financing, and improvement of the rights-of-way of the corridor.

During the floor debate, the Senate also acted to cut in half the time period suggested for completion of the high-speed project and to authorize immediate engineering studies when it adopted my amendment.

Now the conference report contains similar provisions that will not only enable this project to begin immediately but hopefully to be completed within the next 5 years.

I want to commend Senator PASTORE particularly for his vigorous defense of the Northeast corridor project during the conference. He has been a cosponsor down through the years of legislation on this subject and he has been a longtime advocate of improved rail passenger service along with his colleague, Senator PELL.

The key provisions of the bill provide:

First, that the final system plan for restructuring rail service in the Northeast provide for "the establishment of improved high-speed rail passenger service consonant with the recommendations of the Secretary in his report of September 1971, entitled 'Recommendations for Northeast Corridor Transportation'."

Second, the bill provides that the plan must designate the properties in the corridor to be acquired by Amtrak to develop the high-speed passenger service recommended in the Secretary's report.

Third, the bill provides approximately $500 million in guaranteed loans which the statement of managers clearly designates for using in upgrading the corridor, including the complete installation of welded rail, signal improvements, fencing of the right-of-way, modernized electrification, and new rolling stock.

Fourth, the Secretary is directed to begin the necessary engineering studies and improvements immediately upon enactment.

Finally, the bill provides for completion at the "earliest practicable date after the date of enactment" which the statement of managers indicates should be in less than 5 years.

This project not only will repay the citizens of this land with an efficient, rapid, and energy-conserving transportation system in the Nation's most densely populated corridor but it also will be a profitmaking service that will help Amtrak modernize and improve its other passenger services.

I urge adoption of the conference report.

Mr. HUGH SCOTT. Mr. President, I would like to direct one or two questions concerning certain provisions of this legislation to the distinguished chairman of the subcommittee. I would first like to compliment the chairman and the members of the conference for their prompt and diligent efforts in bringing this conference report to the floor. This legislation is very important to the whole country as well as to the people in the Northeast.

There are several profitable railroads operating in the Northeast region. The bill treats those rail systems differently than the bankrupt system, as it should. There are, however, several smaller railroads which operate within the systems operated by the major railroads in reorganization. There are, also, some smaller railroads which operate profitably and independently but are associated with a railroad in reorganization due to direct or indirect stock ownership by the bankrupt railroad company. The definition of "profitable railroads" in the Senate bill did not make it clear that these smaller independent railroads, not operated as part of a railroad in reorganization were in fact to be treated as "profitable railroads."

There are two independent class I railroads, for instance, that appear to fall in this latter category. One is the Pittsburgh and Lake Erie Railroad Co. Over 92 percent of its common stock is owned by Penn Central Transportation Co., but it is not part of the Penn Central system, it has independent management and in fact directly competes with the Penn Central for traffic. It is not leased or operated by the Penn Central, nor is it wholly owned by the Penn Central.

Another such railroad is the Detroit, Toledo, and Ironton Railroad. A substantial portion of its stock is held by the Pennsylvania Co., which is an investment company, not a railroad, which is a wholly owned subsidiary of the Penn Central Transportation Co. It is not part of the Penn Central System. It also operates independently, has independent management and competes directly with Penn Central. Only one member of the Penn Central sits on D.T. & I.'s board of directors. In addition, the ICC has specifically upheld D.T. & I.'s independent status in proceedings at the time the

Pennsylvania Co. acquired its stock. It is not leased, operated, or wholly owned by a railroad in reorganization.

It was our clear understanding at the time the Senate passed S. 2767 that the legislation did not require the transfer of rail properties of independent, profitable railroads. The language in the House bill was somewhat different but I understand that the intent was the same.

It is my understanding that the conference amended the definition of "rail properties" in section 103 of this legislation to make it clear that independent, profitable class I railroads are not required to transfer assets to the new corporation. Let me read the definition of "rail properties" in section 103:

The term "rail properties" means assets or rights owned, leased, or otherwise controlled by a railroad which are used or useful rail transportation service; except that the term, when used in conjunction with the phrase "railroads leased, operated, or controlled by a railroad in reorganization," shall not include assets or rights owned, leased or otherwise controlled by a class I railroad which is not wholly owned, operated, or leased by a railroad in reorganization but is controlled by a railroad in reorganization.

Is it a correct interpretation of this provision that rail properties owned, leased or otherwise controlled by class I railroads such as P. & L.E., and D.T. & I., cannot be required to be transferred to the new corporation since they are not railroads wholly owned, operated or leased by a railroad in reorganization?

Mr. HARTKE. The senior Senator from Pennsylvania is correct. This is the intent of these provisions of the legislation.

Mr. HUGH SCOTT. I thank the Senator from Indiana. Is it also the intent of these provisions that such railroads are in fact "profitable railroads" under that definition in section 103?

Mr. HARTKE. Yes, the Senator is correct. That is the intent of these provisions.

Mr. MONDALE. Mr. President, I regret that I must oppose the conference report on H.R. 9142, the Northeast Rail Services Act.

This legislation is designed to preserve essential railroad transportation in the Northeast, and that is a commendable objective. But while we are spending billions to overhaul the Penn Central and other bankrupt carriers in the Northeast, we must not neglect the pressing rail service needs of rural communities throughout America.

Last week the Senate considered a similar bill, but it made two major additions. The first amendment, which I was privileged to sponsor with Senator HUMPHREY, provided for a 2-year moritorium on any railroad abandonments. Our second amendment authorized Federal assistance to restore service along abandoned tracks wherever those lines may be located. This amendment also called for a nationwide study of America's rail transportation needs and of the costs and benefits of abandonments.

Unfortuantely, these amendments were not accepted by the House of Representatives. Without these changes, the conference report in my judgment fails to recognize and adequately deal with the critical rail transportation needs of our Nation.

The steady decline in rail services to rural communities in the Midwest is not as dramatic as the threatened shutdown of the Penn Central in the Northeast. It is, nevertheless, a serious nationwide problem and one that demands the urgent attention of the Congress.

Since 1970, more than 7,800 miles of track have been lost to rural America. Federal agencies, such as the Interstate Commerce Commission, are now making plans to speed the abandonment of rural branch lines. Under the so-called 34-car rule, hundreds of farm communities throughout rural America may be stripped of their rail service over the next 12 to 18 months.

Agricultural communities have for many years had to struggle with a terribly inadequate transportation system. Their highways have received almost no attention from the Federal Government. Railroad companies have allowed rural branch lines to deteriorate to the point where trains must creep along at the speed of a horse and wagon.

During 1973, the United States and other nations became painfully aware of the consequences of food shortages. At the Government's urging, farmers responded with fence-to-fence planting. But without adequate means of transportation, country elevators all over the Midwest are still jammed.

In my opinion, the administration failed to anticipate the needs of the farm community for increased transportation, fuel and other inputs needed to produce and move their products to market. Worse still, it is still pursuing policies, such as the 34-car rule, which will only hasten the demise of our agricultural transportation network.

Now, the energy crisis has greatly increased the need to preserve and modernize rail services to rural America. With shortages of gasoline and diesel fuel, it makes no sense to abandon rail lines when trains can move each ton of freight for one-fourth to one-sixth the energy required by trucks.

Accelerated abandonments in the absence of any systematic analysis of America's transportation needs, capabilities, and the costs and benefits of alternative modes of transportation would be a tragic and costly mistake.

I regret that the pending confrence report does not address this problem. We must not permit America's entire transportation system to reach the crisis stage before we take action to preserve essential rail services. It is my hope that the Senate Commerce Committee will begin consideration of the problem of rail abandonments soon after the Congress reconvenes next year.

As evidence of the need for action to preserve our Nation's rail transportation system, I ask unanimous consent that a recent editorial from the New York Times be printed at this point in the RECORD.

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

UNLOCKED TREASURY DOOR

The Senate, following the lead of the House, has approved legislation to preserve essential railroad transportation in the Northeast. This rescue mission for the bankrupt rail systems that now serve the region will almost certainly forestall judicial orders for dismantlement of the systems—a disaster the country could not contemplate even if the energy crisis had not made freight and passenger service more vital than ever.

But the unmistakable need for Federal action scarcely justifies the absence in both Senate and House versions of adequate safeguards against squandering of public funds in the reorganization effort. The Senate bill goes even further than did the one in the House to unlock the Treasury door on behalf of the new rail operating corporation.

The Government-backed loans, guarantees and subsidies in the new system could run far beyond the $1.4-billion over-all figure envisaged by the House. The Senate bill almost invites such excess by its loose provisions. Even the section of both measures that seemed at the outset to have the greatest merit—the provisions for indemnity to rail workers shaken out of their jobs by the reorganization—have proved on close examination to exceed any fair obligation the taxpayers should be expected to bear.

All this provides a gloomy backdrop for preparation by the projected Government National Railway Association, in connection with other Federal agencies, of recommendations on which lines are to be kept and which dropped as part of the new transportation pattern.

The Senate bill is better than the House version in this respect because one place where it makes more money available to good purpose is in keeping unprofitable feeder lines running not only in the Northeast, but all over the nation. It also puts a two-year moratorium on any abandonments. The energy crisis has put this need in a new context. Railroads that have been regarded as overbuilt in terms of ability to operate at a profit need evaluation by a new yardstick.

Dr. Barry Commoner, the noted ecologist, points out in the latest issue of Harper's that to shift freight from this "surplus" trackage to trucks would involve a sharp increase in the consumption of gasoline. In terms of energy, railroads are by far the most efficient form of transportation. If the planners of the reorganized, integrated system take energy as well as immediate profitability into account, they may well choose to abandon much less trackage than had been thought likely even a few months ago. The least the House-Senate conferees can now do is to retain the strong veto over reorganization envisaged in the Senate bill because the nation has barely begun to rethink its transportation needs and priorities in today's changed context.

The PRESIDING OFFICER (Mr. ABOUREZK). 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 proceeded to call the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Utah (Mr. Moss), the Senator from Rhode Island (Mr. PASTORE), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN),

the Senator from Missouri (Mr. EAGLETON), the Senator from Minnesota (Mr. HUMPHREY), the Senator from California (Mr. TUNNEY), the Senator from Georgia (Mr. TALMADGE), the Senator from New Mexico (Mr. MONTOYA), and the Senator from California (Mr. CRANSTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Nevada (Mr. CANNON), the Senator from Delaware (Mr. BIDEN), and the Senator from Missouri (Mr. EAGLETON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The Senator from New Jersey (Mr. CASE) is detained on official business.

If present and voting, the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

If present and voting, the Senator from Ohio (Mr. TAFT) would vote "nay."

The result was announced—yeas 45, nays 16, as follows:

[No. 612 Leg.]

YEAS—45

Abourezk	Hathaway	McIntyre
Bayh	Hruska	Metcalf
Beall	Huddleston	Muskie
Bible	Hughes	Nunn
Burdick	Inouye	Pell
Chiles	Jackson	Randolph
Clark	Javits	Ribicoff
Curtis	Johnston	Roth
Dole	Kennedy	Schweiker
Fannin	Long	Scott, Hugh
Fulbright	Magnuson	Sparkman
Griffin	Mathias	Stevenson
Hart	McClellan	Symington
Hartke	McGee	Williams
Haskell	McGovern	Young

NAYS—16

Allen	Domenici	Proxmire
Bartlett	Hansen	Scott, William L.
Byrd, Harry F., Jr.	Mansfield	Stennis
Byrd, Robert C.	Mondale	Stevens
Cook	Nelson	Thurmond
	Packwood	

NOT VOTING—39

Aiken	Bennett	Brock
Baker	Bentsen	Brooke
Bellmon	Biden	Buckley
Cannon	Goldwater	Pastore
Case	Gravel	Pearson
Church	Gurney	Percy
Cotton	Hatfield	Saxbe
Cranston	Helms	Stafford
Dominick	Hollings	Taft
Eagleton	Humphrey	Talmadge
Eastland	McClure	Tower
Ervin	Montoya	Tunney
Fong	Moss	Weicker

So the conference report was agreed to.

Mr. HARTKE. Mr. President, I move that the Senate reconsider the vote by which the conference report was agreed to.

Mr. BEALL. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, just as insurance, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9 a.m. tomorrow.

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

INCREASE IN SOCIAL SECURITY BENEFITS

The PRESIDING OFFICER (Mr. ABOUREZK). Under the previous order, the Senate will now proceed to the consideration of Calendar No. 637, H.R. 11333, which the clerk will state.

The second assistant legislative clerk read as follows:

H.R. 11333, to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LONG. Mr. President, I ask unanimous consent that during consideration of this bill the following persons be given the privilege of the floor, including during the rollcall votes:

Michael Stern, Jay Constantine, Bill Galvin, Joe Humphreys.

From the Library of Congress: Fred Arner, Margaret Malone, Jennifer O'Sullivan, Frank Crowley.

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

Mr. LONG. Mr. President, on November 30, a little less than 3 weeks ago, the Senate approved a bill which included a social security benefit increase, an increase in supplemental security income payments for the aged, blind and disabled, and a number of other worthy provisions. We began our conference on this bill yesterday. Because of the number and complexity of the Senate amendments, however, we will not be able to complete conference action today.

I am sure that all Senators want to see the social security and SSI cost-of-living increases enacted this year. We discussed with the House conferees how this could be done and we concluded that if the Senate could pass a bill with the social security benefit increase, the SSI payment increase, and those Senate provisions which must be enacted by January 1, the House would accept these amendments and send the bill on to the President, hopefully today.

Of course, this means that the conference on H.R. 3153 will continue next year after we come back from our recess. Many of us have had amendments of ours approved by the Senate which we are most anxious to see legislative action completed on.

For example, I was pleased that the Senate gave overwhelming support to my proposal for a "work bonus" or tax credit for low-income workers with families. Other Senators, of course, have had their amendments approved by the Senate. The Senate conferees have been assured by the House conferees that they will give full consideration to the remaining Senate amendments shortly after the Congress comes back from its recess in January.

Now, let me describe the provisions of the bill and the amendments I am offering to it that I am asking the Senate to pass.

SOCIAL SECURITY BENEFIT INCREASE

First, the bill contains a 7-percent social security benefit increase effective for the months of March, April and May, 1974. Beginning June 1974, benefits will be further increased to 11 percent higher than the present levels. Automatic cost-of-living increases in future years will be effective for the month of June rather than for the month of January. These provisions were included in the Senate-passed bill now in conference, with the main difference that the effective date of the 7-percent increase would have been immediate in the Senate bill.

To pay for the social security benefit increase, wages taxable under social security will be increased from $12,600 to $13,200 in 1974. Total social security tax rates will remain the same for the next 7 years, but there will be a small shift in funds from the hospital insurance fund to the cash benefit trust funds.

SUPPLEMENTAL SECURITY INCOME PAYMENTS

Supplemental security income payments for the aged will be increased from $130 to $140 per month for an individual beginning in January 1974; in July they will be further increased to $146. Payments to couples will be increased from $195 to $210 in January and further increased to $219 in July.

Under present law, many SSI recipients will be ineligible to receive food stamps beginning next month. Under a provision in the Senate version of H.R. 3153, they would continue to be eligible for food stamps in the future. The House conferees wished to examine this provision more closely, but they agreed that for a 6-month period, until July 1, 1974, SSI recipients would continue to be eligible for food stamps. Because of the short time left before the SSI program becomes effective, however, the amendment includes a provision that was in the Senate version of H.R. 3153. Under this provision, those States which have already made plans to "cash out" food

stamps would be permitted to do so, with recipients in those States ineligible for food stamps.

SOCIAL SERVICES

On May 1, 1973, the Department of HEW issued sweeping revisions in Federal regulations relating to social services under the Social Security Act. These regulations were to have become effective on July 1; however, the Congress delayed the effective date of the new regulations until November 1 in order to allow time for many thorough legislative considerations of the issues involved.

The Senate, in an amendment incorporated in H.R. 3153, agreed to permit States to fashion their own social services programs within the limit of the Federal funds available. The House conferees wanted time to give this proposal full consideration, but they agreed that during an interim period the present HEW regulations should be suspended. Accordingly, the amendment includes a further suspension of the regulations until December 31, 1974. The suspension is retroactive to November 1, 1973, so that there would be no period prior to January 1, 1975, when the new regulations would be in effect.

MEDICARE AND MEDICAID AMENDMENTS

Medicaid eligibility. The bill contains several sections treating the matter of medicaid eligibility for SSI recipients. The bill contains a provision which would make Federal matching available for medicaid benefits for any new SSI recipients, although coverage of these new recipients would be optional on the part of a State. The bill would make medicaid coverage mandatory for those persons who receive a mandatory State supplemental payment in accordance with the provisions of Public Law 93–66. The amendment also provides that for other persons receiving a State supplemental payment only, coverage would be optional, depending upon the State's decision, but that a State must make eligibility determinations based upon some rational classifications of recipients. Additionally, the provision places an upper limit on the monthly income—initially $420 in the case of an individual—which an institutionalized person can have and still be "deemed" in special need and therefore eligible for medicaid coverage in a State without a medically indigent program.

There is also a need to clarify legislative intent with respect to certain medicaid eligibility determinations. Title XVI provides that, at State request, the Secretary may agree to make Federal determinations of medicaid eligibility for the aged, blind, and disabled. Approximately half of the States have requested the Secretary to do so. However, HEW has refused to do eligibility determinations for any persons except for those who are actually receiving an SSI payment or a federally administered supplement. If a person enters a skilled nursing facility or intermediate care facility, and no longer receives an SSI payment—because of the reduction in the standard to $25 a month—the Department will refuse to make the determination of his medicaid eligibility. This means that a State has to establish its own mechanism to determine eligibility for these people in nursing homes. This is not only inefficient for the State, but puts a burden on the ailing person to provide, again, information on his circumstances, and so forth. It is expected, therefore, and intended that the Department undertake Federal determinations of medicaid eligibility at State request, not only for persons receiving an SSI payment or federally administered supplement but also for persons who would be eligible for such a payment if they wished to receive it, or for persons who would receive the payment if they were not in the institution.

Payments to substandard facilities. The bill contains a provision which amends title XVI to provide that the Federal SSI payment will be reduced dollar-for-dollar for any State supplemental payment which is made for care provided to institutionalized individuals if this care could be provided under the State's medicaid program. This provision is intended to prevent States from using their cash grant programs to finance care in institutions which do not meet medicaid standards.

REIMBURSEMENT OF INSTITUTIONS AND ORGANIZATIONS UNDER MEDICARE

The bill amends the effective date of section 233 of Public Law 92–603 to accounting periods beginning after December 31, 1973, instead of December 31, 1972 as in present law. This section of the law limits medicare reimbursement to the lesser of an institution's costs or charges to the general public. The provision provides additional time for such institutions to adjust their charges to more accurately reflect their costs.

REIMBURSEMENT OF PHYSICAL THERAPISTS UNDER MEDICARE

Section 251 of Public Law 92–603, which details the approved means of reimbursing for the services of physical therapists under medicare, has an effective date of January 1, 1973. In view of the fact that appropriate regulations implementing the provisions have not been issued as yet, the bill includes an amendment making section 251 of Public Law 92–603 effective following publication of the final regulations.

SUPERVISORY PHYSICIANS

The bill includes an amendment directing the Secretary of Health, Education, and Welfare to contract with the National Academy of Sciences to undertake a study covering all aspects related to payment for professional services in medical schools and teaching hospital settings; the extent to which funds expended under medicare and medicaid are supporting the training of medical specialties which are in excess supply; how such funds could be expended in ways which support more rational distribution of physician manpower both geographically and by specialty; the extent to which such funds support or encourage teaching programs which tend to disproportionately attract foreign medical graduates; and the existing and appropriate role of that part of such funds which are expended to meet in whole or in part the cost of salaries of interns and residents in teaching programs approved as specified in medicare.

EXTENDED UNEMPLOYMENT COMPENSATION

Under present law, 13 weeks of extended unemployment insurance benefits—in addition to the 26 weeks of regular benefits—are available with 50-percent Federal financing if the rate of insured unemployment is high enough either nationally or in a particular State. The national rate of insured unemployment is not presently high enough to trigger these extended benefits nationally. For an individual State to be eligible for Federal matching of extended benefits, the law, as it will be in effect after this month, requires that insured unemployment in the State must be at least 4 percent and it must be at least 20 percent higher than it was in a comparable period in the 2 prior years. The amendment would, for a 90-day period, permit Federal matching of extended benefits in any State whose insured unemployment exceeds 4 percent without regard to the 20-percent requirement.

Mr. President, we were very pleased at our success in persuading the House to agree to this amendment to extend for 90 days the benefits proposed in the Javits amendment relating to unemployment compensation. The remainder of the Javits amendment, of course, will be the subject of the conference that is to continue.

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

Mr. LONG. I yield.

Mr. JAVITS. I see a large significance to what the Senator is doing. Most people have the idea that we are insensitive to economic currents and to rationalization and that there is a lot of talk around here about precedents and who does what and who gets the benefit of what, and so forth. I think it is an illustration here of the fact that we are responsive to economics and that if we feel a decent idea comes along, even if a person is not a member of this committee, we do something about it.

This is a very healthy situation and is quite typical of Senator LONG and his openmindedness. I appreciate it personally; but, more than that, I think it is a significant example of the fact that Congress is not quite as dull as many people think it is.

Mr. LONG. I thank the Senator.

Mr. President, this proposal must be looked upon as a downpayment on what the Senate wants to do in the social security area. The Senate version of H.R. 3153, as it left here, would cost the Government $6.4 billion in calendar year 1974. What is being proposed here would cost $2.4 billion. The remaining $4 billion of very meritorious amendments are still in conference. The House conferees have assured us that they will be willing to consider and discuss these matters with us next year. If we can take care of these pressing matters, I believe that the Nation will applaud our statesmanship.

I also must advise the Senate that if the Senate should insist on adding to this measure those amendments already in conference with the House, it will mean that we will not be able to act on these crucial matters between now and the time we return.

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

Mr. LONG. I yield.

Mr. MANSFIELD. As I understand it, in talking to various Senators, it is a case of this skeletonized bill, so to speak, or no bill at all this year.

Mr. LONG. That is what it amounts to.

Mr. MANSFIELD. And the other amendments, all of which I think I voted for, would still be in conference.

Mr. LONG. Yes.

Mr. MANSFIELD. And would be taken up on our return.

Mr. LONG. They will be. In other words, we can obtain now this much of what we have recommended by Senate action, and we have high hopes that we can obtain much more of it next year.

The House conferees are only willing to recommend to the House at this time that they approve those things that must be done now and without which severe hardship might occur to a great number of people between now and the time Congress is able to pass effective legislation next year.

Mr. MANSFIELD. If this bill is passed, when will it go into effect—the first of the year?

Mr. LONG. There are many provisions concerning the SSI program, the new Federal program which will replace the present Federal-State welfare programs for aged, blind, and disabled people on January 1. If we fail to enact the provision in my amendment, a great number of unfortunate events would occur, more through oversight than from any intention of Congress or the administration.

Mr. MANSFIELD. I would hope that my colleagues would keep this fact in mind and that no amendments would be offered; because if they are offered and it is strung out and we end up without a quorum because of protracted debate, we will end up with nothing, and the poor folks who need the help will end up with nothing as well.

Mr. LONG. Mr. President, I had hoped that the RECORD would contain a summary of the amendments we are discussing here en bloc, and I had a summary inserted in the RECORD yesterday. Unfortunately, in order to get at least part of the RECORD printed and available this morning, the hard-working and diligent people in the Government Printing Office simply had to quit at some point last night, and they have a note in the RECORD that the remainder of the items which were to be printed in yesterday's RECORD will be printed subsequently, in part 2 of yesterday's RECORD which will not be available until sometime later today. However, they have been kind enough to make copies of the galleys containing the summary, and I have the summary of the proposed amendments, which Senators can peruse for their enlightenment on this subject. I ask unanimous consent that the summary of the proposed amendments be printed in the RECORD at this point.

There being no objection, the summary of the proposed amendments was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED AMENDMENTS TO H.R. 11333

SOCIAL SECURITY CASH BENEFITS

11% Benefit increase.—Under a provision enacted last year, social security benefits will rise automatically as the cost of living rises. Under last year's law, the first cost of living increase would not have become effective until January 1975. In July of this year a provision was enacted increasing social security benefits by 5.9 percent, effective for June 1974; this increase would be an early partial payment of the larger cost-of-living increase already scheduled to become effective January 1975. The bill would replace this 5.9 percent increase effective June 1974 by an 11-percent cost-of-living increase in two steps. The first step would be a 7-percent increase effective March, April, and May 1974. This would be followed by a second increase, starting with June 1974, to bring the benefits up to 11 percent above the present level.

Automatic cost-of-living increases.—Under present law, if the consumer price index rises by at least 3 percent between the second quarter of one year and the second quarter of the next year, social security benefits will be increased by the same percentage that the cost of living has risen, beginning the January following the latter year. The bill would modify this by measuring the increase in the cost of living from the first quarter of one year to the first quarter of the following year, with the automatic cost-of-living increase effective beginning with June of the latter year. (An exception is made for the first automatic increase, effective June 1975, which would be based on the rise in the consumer price index between the second quarter of 1974 and the first quarter of 1975.)

Financing.—Under the bill, wages taxable under social security would be increased from $12,600 in 1974 to $13,200; thereafter, the wage base would increase automatically as wages rise, as under present law. Total social security tax rates under the bill would not be increased until 1981, although future tax income would be shifted from the hospital insurance program into the cash benefit programs. The new tax rates are shown in the table below:

SOCIAL SECURITY TAX RATES
[In percent]

Calendar years	Cash benefits		Hospital insurance		Total taxes	
	Present law	H.R. 11333	Present law	H.R. 11333	Present law	H.R. 11333
	Employer-employee, each					
1974 to 1977	4.85	4.95	1.00	0.90	5.85	5.85
1978 to 1980	4.80	4.95	1.25	1.10	6.05	6.05
1981 to 1985	4.80	4.95	1.35	1.35	6.15	6.30
1986 to 2010	4.80	4.95	1.45	1.50	6.25	6.45
2011 and after	5.85	5.95	1.45	1.50	7.30	7.45

Calendar years	Cash benefits		Hospital insurance		Total taxes	
	Present law	H.R. 11333	Present law	H.R. 11333	Present law	H.R. 11333
	Self-employed					
1974 to 1977	7.00	7.00	1.00	0.90	8.00	7.90
1978 to 1980	7.00	7.00	1.25	1.10	8.25	8.10
1981 to 1985	7.00	7.00	1.35	1.35	8.35	8.35
1986 to 2010	7.00	7.00	1.45	1.50	8.45	8.50
2011 and after	7.00	7.00	1.45	1.50	8.45	8.50

SUPPLEMENTAL SECURITY INCOME

Increases in SSI benefits.—The new Federal Supplemental Security Income (SSI) program, which becomes effective in January 1974, would under present law provide Federal payments to assure the aged, blind, and disabled a monthly income of at least $130 ($195 for couples). Under a provision enacted in July of this year, these amounts would be increased effective July 1974 to $140 for an individual and $210 for a couple. The bill would make these higher amounts of $140 and $210 effective from the start of the SSI program in January 1974. The bill also provides for a further increase, effective July 1974, to $146 for an individual and $219 for a couple.

Food stamp eligibility for SSI recipients.—Under present law many Supplemental Security Income (SSI) recipients will be eligible for food stamps; however, an aged, blind or disabled individual will be ineligible for food stamps for a given month if his SSI benefits plus any State supplementary payment are at least equal to the welfare payment plus the bonus value of the food stamps he would be eligible to receive if the State's December 1973 State plan were still in effect. This provision of law enacted this year will be extremely difficult to administer and would present problems of unequal treatment in food stamp eligibility for SSI beneficiaries. The amendment, therefore, would temporarily suspend this provision to allow a six month period for further study of the problems involved. Under the amendment, SSI beneficiaries would not be ineligible for food stamps during the months prior to July 1974. Because of the short time left before the SSI program becomes effective, however, the amendment includes a provision under which those States which have already made plans to "cash out" food stamps by providing higher benefits to offset the loss of food stamps would be permitted to do so, with recipients in those States ineligible for food stamps.

Limitation on grandfather clause for disabled individuals.—In enacting the new SSI program, the Congress provided that disabled persons on the rolls in December 1973 would continue to be considered to be disabled even if they did not meet the new definition of disability. The amendment would limit this grandfather provision for disability to persons who had received Aid to the Disabled before July 1973 and who are on the rolls in December 1973.

SSI recipients living with AFDC families.—In June, the Congress enacted a grandfather clause to assure that current SSI recipients will have no reduction in total income when the new SSI program goes into effect in January. The amendment would permit the adjustment of the grandfather clause in such a way that it assures the same level of total family income (rather than the *individual's* total income) in those cases in which the SSI recipient resides with an AFDC family.

Continuation of demonstration projects.—The amendment would permit the continuation of on-going demonstration projects related to the aged, blind and disabled,

which qualify for Federal matching under the public assistance titles of the Social Security Act and which involve waivers by the Secretary of Health, Education, and Welfare of some of the requirements of those titles. The new Federal SSI program which next January will replace present programs of aid to the aged, blind and disabled does not provide for such waivers and funding of demonstration projects.

SOCIAL SERVICES

On May 1, 1973, the Department of HEW issued sweeping revisions in Federal regulations relating to social services under the Social Security Act. These regulations were to have become effective on July 1. However, the Congress delayed the effective date of the new regulations until November 1 in order to allow time for more thorough legislative consideration of the issue involved.

The Senate, in an amendment incorporated in H.R. 3153, agreed to permit States to fashion their own social services programs within the limit of the Federal funds available. The House conferees wanted time to give this proposal full consideration, but they agreed that during an interim period the present HEW regulations should be suspended. Accordingly, the amendment includes a further suspension of the regulations until December 31, 1974. The suspension is retroactive to November 1, 1973, so that there would be no period prior to January 1, 1975 when the new regulations would be in effect.

MEDICARE AND MEDICAID AMENDMENTS

Medicaid eligibility.—The bill contains several sections treating the matter of Medicaid eligibility for SSI recipients. The bill contains a provision which would make Federal matching available for Medicaid benefits for any new SSI recipients, although coverage of these new recipients would be optional on the part of a State. The bill would make Medicaid coverage mandatory for those persons who receive a mandatory State supplemental payment in accordance with the provisions of Public Law 93–66. The amendment also provides that for other persons receiving a State supplemental payment only, coverage would be optional, depending upon the State's decision, but that a State must make eligibility determinations based upon some rational classifications of recipients. Additionally, the provision places an upper limit on the monthly income (initially $420 in the case of an individual) which an institutionalized person can have and still be "deemed" in special need and, therefore, eligible for Medicaid coverage in a State without a medically-indigent program.

Payments to substandard facilities.—The bill contains a provision which amends Title XVI to provide that the Federal SSI payment will be reduced dollar-for-dollar for any State supplemental payment which is made for care provided to institutionalized individuals if this care could be provided under the State's Medicaid program. This provision is intended to prevent States from using their cash grant programs to finance care in institutions which do not meet Medicaid Standards.

Reimbursement of institutions and organizations under Medicare.—The bill amends the effective date of Section 233 of P.L. 92–603 to accounting periods beginning after December 31, 1973 instead of December 31, 1972 as in present law. This section of the law limits Medicare reimbursement to the lesser of an institution's costs or charges to the general public. The provision provides additional time for such institutions to adjust their charges to more accurately reflect their costs.

Reimbursement of physical therapists under Medicare.—Section 251 of P.L. 92–603, which details the approved means of reimbursing for the services of physical therapists under Medicare, has an effective date of January 1, 1973. In view of the fact that appropriate regulations implementing the provisions have not been issued as yet, the bill includes an amendment making section 251 of P.L. 92–603 effective following publication of the final regulations.

Supervisory physicians.—The bill includes an amendment directing the Secretary of Health, Education and Welfare to contract with the National Academy of Sciences to undertake a study covering all aspects related to payment for professional services in medical schools and teaching hospital settings; the extent to which funds expended under Medicare and Medicaid are supporting the training of medical specialties which are in excess supply; how such funds could be expended in ways which support more national distribution of physician manpower both geographically and by specialty; the extent to which such funds support or encourage teaching programs which tend to disproportionately attract foreign medical graduates; and the existing and appropriate role that part of such funds which are expended to meet in whole or in part the cost of salaries of interns and residens in teaching programs approved as specified in Medicare.

UNEMPLOYMENT INSURANCE

Extended unemployment compensation.—Under present law, 13 weeks of extended unemployment insurance benefits (in addition to the 26 weeks of regular benefits) are available with 50 percent Federal financing if the rate of insured unemployment is high enough either nationally or in a particular State. Under the permanent provisions of present law, as they relate to triggering programs in individual States, insured unemployment in a State must be at least 4 percent and it must be at least 20 percent higher than it was in a comparable period in the two prior years. Under temporary provisions in the law, due to expire at the end of December, 1973, a State whose insured unemployment rate exceeds 4.5 percent may pay extended benefits with 50 percent Federal matching even though the unemployment rate drops to below 120 percent of the rate during the prior two years and may, continue to make such payments so long as its insured unemployment rate does not drop below 4 percent. The amendment would, for a 90 day period, permit Federal matching of extended benefits in any State whose insured unemployment rate exceeds 4 percent without regard to the 120 percent requirement.

CLERICAL AND CONFORMING AMENDMENTS

The amendment includes a number of clerical and conforming amendments designed to correct errors and oversights in last year's social security amendments.

SOCIAL SECURITY CASH BENEFITS

Automatic increases in earnings test exempt amount.—The amendment would provide that the percentage rise in the retirement test exempt amount under the automatic increase provisions (adopted in connection with the automatic cost-of-living benefit increase provisions) will be measured from the last increase in the exempt amount rather than from the last increase in tax base. This amendment would assure that the automatic increases in the exempt amount in crease in proportion to all increases in wage levels.

Increase in certain cases of delayed retirement.—When an individual delays his retirement past age 65, his benefits are increased 1 percent for each year of delay up to age 72. However, this increase for delayed retirement does not apply when a person is eligible for the special minimum benefit for low-wage, long-term workers (now a $170 monthly benefit if the worker has 30 years of covered employment). It is possible that an individual's primary insurance amount may be less than the special minimum benefit he is eligible for, but delaying retirement would yield a higher benefit than the special minimum. Under present law the individual could receive the lower benefit in this case; the amendment would let him take the higher benefit.

Elimination of special age 72 benefits for people entilted to SSI.—This amendment would prohibit the payment of the special benefits payable to certain people over age 72 who are not insured for regular benefits and who are eligible for SSI payments. Under the present law, these special benefits are not payable to people who are receiving welfare payments. The 1972 amendments, however, failed to include a conforming change to prevent the payment of the special benefits to people receiving SSI payments.

SUPPLEMENTAL SECURITY INCOME

Limitations on eligibility determinations under resources tests of State plans.—The SSI program includes a grandfather clause under which an individual who was getting aid to the aged, blind, or disabled in both December 1972 and December 1973, will continue to be allowed as much in resources (assets) under SSI as he was allowed under the State assistance plan in effect in October 1972. This amendment would remove the requirement that such an individual have been on the rolls in December 1972 and would make the grandfather clause applicable only for as long as he remains continuously resident in the State in which he was getting assistance in December 1973 and cotinuously eligible for SSI (except that periods of ineligibility of no more than 6 consecutive months will not be counted).

Limitations on eligibility and benefit determinations under income tests of State plans for aid to the blind.—The SSI program includes a grandfather clause under which an individual who was getting aid to the blind in December 1973 will remain eligible under SSI for any income in regard to which he would have enjoyed under the State aid to the blind plan as in effect in October 1972. This amendment would make the grandfather clause applicable for only so long as the individual remains continuously eligible for SSI (except for periods of ineligibility not exceedng 6 months) and only for so long as he remains continuously a resident of the State in which he was getting assistance in December 1973.

Correction of erroneous designations and cross-references.—This subsection would correct erroneous section numbers and cross references in the present law.

Initial payments to presumptively disabled individuals unrecoverable only if individual is ineligible because not disabled.—Payments under the SSI program may be made for up to three months to otherwise eligible individuals who are presumptively disabled but not yet determined to be disabled. Such payments are not considered overpayments under any condition under existing law. This amendment would allow such payment to be considered overpayments (and hence subject to recapture) if they were incorrectly made for reasons other than the fact the individual was found not to be disabled.

Technical correction of limitation of fiscal liability of States for optional supplementation.—Public Law 92–603 includes a savings clause under which States are assured that certain State supplementary costs under the SSI program will not exceed their costs under the old programs of aid to the aged, blind, and disabled during calendar year 1972. This amendment provides that in fiscal 1974, States will be guaranteed that these costs will not exceed an amount equal to one-half of their calendar 1972 costs. This change reflects the fact that the SSI program is in effect for only one-half a year in fiscal 1974. The amendment also restores a

word inadvertently dropped from section 401 (c)(1) of Public Law 92-603.

Modification of transitional administrative provisions.—Public Law 92-603 included a transitional administrative provision requiring the States to agree to administer all or part of the new SSI program on behalf of the Federal Government, for a 1-year transitional period. As a result of an error in drafting, this 1-year transitional period would begin in July 1974, 6 months after the program is effective. The amendment would add the first 6 months of 1974 to the transitional period (making an 18-month period). This amendment also adds title VI (the new social services title for the aged, blind, and disabled) to the list of titles under which Federal funding would be denied to the States if they refuse to enter into these transitional arrangements.

Inclusion of title VI in limitation on grants to States for social services.—This amendment would change the social services limitation enacted in Public Law 92-512 to conform it to the transfer of services for the aged, blind, and disabled from the old titles I, X, XIV, and XVI to the new title VI.

Conforming amendments to general provisions of Social Security Act.—A number of general provisions in title XI of the Social Security Act dealing with the definition of the term "State", with demonstration projects, and with the procedures for review of State assistance plans do not reflect provisions enacted last year which transfer the services programs for the aged, blind, and disabled to a new title VI of the Act and which make special provision for programs for the aged, blind, and disabled in Puerto Rico, Guam, and the Virgin Islands. The amendment would conform these sections to the law enacted last year.

Transitional Federal payments.—P.L. 92-603 repeals the existing programs of aid to the aged, blind, and disabled at the same time that the new SSI program is commenced—January 1, 1974. The amendment would authorize the Secretary of HEW to continue to make payments to the States under the repealed programs for two purposes: (1) to meet the Federal matching obligation based on State expenditures prior to the repeal date, and (2) to match State expenditures after the repeal date in connection with closing out the old programs.

AID TO FAMILIES WITH DEPENDENT CHILDREN

Federal matching for AFDC payments to Indians.—Under an Act of April 19, 1950 the Federal matching for assistance payments for the aged and the blind and for families with children is increased substantially with respect to assistance furnished to Navajo and Hopi Indians. Section 303(c) of P.L. 92-603 repealed this provision effective January 1, 1974 when the new SSI program takes effect. This amendment would restore that Act insofar as it applies to the AFDC program.

MEDICARE AND MEDICAID

Clarification of coverage of hospitalization for dental services.—The amendment clarifies that Medicare Part A coverage of hospitalization in connection with dental services is available only in behalf of an individual for whom a physician or dentist certifies that his underlying medical condition and clinical status require hospitalization in connection with the provision of such dental services.

Continuation of State agreements for coverage of certain individuals.—The amendment provides for the continuation of State agreements for the purchase of Medicare Part B coverage (buy-in) on behalf of individuals eligible for the supplemental security income program.

Technical improvement of provisions governing disposition of HMO savings.—The amendment deletes an unnecessary and ambiguous clause in the provisions governing the disposition of savings realized by an HMO.

Technical improvement of provisions governing allowable HMO premium charges.—The amendment provides for the inclusion of the cost of reinsurance required by State laws in determining the costs incurred by an HMO.

Application for assistance on behalf of deceased individuals.—The amendment clarifies that application for retroactive Medicaid coverage may be made on behalf of a deceased individual by another person.

Expansion of intermediate care facility ownership disclosure requirements.—The amendment contains a provision requiring the discolsure of the names of those who own obligations secured by the assets of the intermediate care facility as well as the names of those who are owners of the facility.

Technical modification of extended Medicaid eligibility for AFDC recipients.—P.L. 92-603 included a provision which would require States to provide Medicaid coverage for an additional 4-month period to persons who lose their eligibility for AFDC cash assistance and therefore Medicaid because of increased income. The amendment restricts to applicability of this provision to persons actually receiving AFDC payments (as opposed to persons eligible for but not actually receiving payments). It also extends coverage to persons who become ineligible for AFDC because of increased hours of employment as well as increased income.

Limitation on payments to States for expenditures in relation to disabled individuals eligible for Medicare.—The amendment contains a provision under which payments will not be available under Medicaid for services which could have been provided to eligible disabled individuals under Medicaid if such individuals had been enrolled in Part B of Medicare. Current law includes this requirement for the aged.

Federal payment for cost of inspecting institutions limited to expenses incurred during covered period.—The amendment clarifies that 100 percent Federal matching for the cost of inspecting long-term care institutions will be made for costs incurred rather than sums expended between October 1, 1972 and June 30, 1974.

Federal payments for family planning expenditures not limited to administrative costs.—The amendment contains a provision clarifying the fact that 90 percent Federal matching for family planning is available for the cost of providing family planning services and not merely for the cost attributable to administering such programs.

Exception to limitation on payments to States for expenditures in relation to individuals eligible for Medicare.—Current law provides that Federal matching will not be available under Medicaid for amounts expended for medical assistance with respect to individuals 65 or over which would not have been so expended if the individuals involved had been enrolled in Part B of Medicare. The amendment would extend this stipulation to disabled persons eligible for Medicare. This stipulation will not, however, apply to expenditures arising out of the requirement that States provide retroactive Medicaid eligibility in certain instances.

Utilization review by medical personnel associated with an institution.—The amendment eliminates requirement in Medicaid that the review of institutional care may not be performed by an employee of a hospital.

Authority to prescribe standards under title XIX for active treatment of mental illness.—The amendment deletes the reference to regulations for active treatment under Medicare (which do not exist in such form) and gives the Secretary authority under Medicaid to establish such regulations.

Correction of erroneous designations and cross-references.—Corrects clerical errors in title XIX.

Deletion of obsolete provisions.—Deletes obsolete provisions in title XIX.

Determination of amount of exclusion for disapproved expenditures by institutions reimbursed on fixed fee or negotiated rate basis.—P.L. 92-603 included a provision providing a limitation on Federal participation for disapproved capital expenditures. The amendment provides that in the case of disapproved capital expenditures by an institution reimbursed on a fixed fee or negotiated rate basis, the Secretary shall determine the amount by which the reimbursement is to be reduced because of such expenditures. There is currently no provision governing the determination of reductions for institutions reimbursed on a fixed fee or negotiated rate basis rather than a per capita basis.

Technical improvement of authority to include expenses related to capital expenditures in certain cases.—The amendment corrects clerical errors.

Mr. CURTIS. Mr. President, if it is the will of Congress that it wants a social security bill passed in this calendar year, it should then support the position taken by the distinguished chairman of the Committee on Finance, Mr. LONG.

The social security bill that passed the Senate was a massive bill. It can be measured in one respect by what the distinguished chairman has already called attention to. The Senate-passed version of H.R. 3153 contained a first-year cost of $6.4 billion. This meant that many items were in it that were far-reaching, that were broad, that were controversial. Some of them had not been considered by the House. As to many of the items, there have been no hearings on that side.

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

Mr. CURTIS. I yield.

Mr. LONG. Mr. President, I sent my amendment to the desk, and I thought I had called it up. I ask unanimous consent that I may call up my amendment at this time.

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

The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

INTERIM COST-OF-LIVING INCREASES IN SOCIAL SECURITY BENEFITS

SECTION 1. (a) Section 201(a)(1) of Public Law 93-66 is amended by striking out "the percentage by which" and all that follows and inserting in lieu thereof the following: "7 per centum.".

(b) Section 201(a)(2) of Public Law 93-66 is amended—

(1) by striking out "May 1974" each place it appears and inserting in lieu thereof "February 1974"; and

(2) by striking out "January 1975" each place it appears and inserting in lieu thereof "June 1974".

(c) Section 201(b) of Public Law 93-66 is amended to read as follows:

"(b) The increase in social security benefits authorized under this section shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act for the implementation of cost-of-living increases authorized under title II of such Act, except that—

"(1) the amount of such increase shall be 7 per centum,

"(2) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section, such increase shall be determined without regard to paragraph (2)(B) of such section 202(e), and

"(3) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act for February 1974 (without the application of section 202(j)(f) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(3) of such Act as amended by this section, such increase shall be determined without regard to paragraph (3)(B) of such section 202(f).".

(d) Section 201(c)(2) of Public Law 93-66 is amended by striking out "May 1974" and inserting in lieu thereof "February 1974".

(e) Section 201(d) of Public Law 93-66 is amended by striking out "December 1974" each place it appears and inserting in lieu thereof "May 1974".

(f) Section 202(e) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made."

(g) Section 202(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(8) In the case of an individual entitled to monthly insurance benefits payable under this section for any month prior to January 1973 whose benefits were not redetermined under section 102(g) of the Social Security Amendments of 1972, such benefits shall not be redetermined pursuant to such section, but shall be increased pursuant to any general benefit increase (as defined in section 215(i)(3)) or any increase in benefits made under or pursuant to section 215(i), including for this purpose the increase provided effective for March 1974, as though such redetermination had been made."

(h)(1) Section 215(a)(3) of the Social Security Act is amended by striking out "$8.50" and inserting in lieu thereof "$9.00".

(2) The amendment made by paragraph (1) shall be effective with respect to benefits payable for months after February 1974.

(i) In the case of an individual to whom monthly benefits are payable under title II of the Social Security Act for February 1974 (without the application of section 202(j)(1) or 223(b) of such Act), and to whom section 202(m) of such Act is applicable for such month, such section shall continue to be applicable to such benefits for the months of March through May 1974 for which such individual remains the only individual entitled to a monthly benefit on the basis of the wages and self-employment income of the deceased insured individual.

ELEVEN-PERCENT INCREASE IN SOCIAL SECURITY BENEFITS

SEC. 2. (a) Section 215(a) of the Social Security Act is amended by striking out the table and inserting in lieu thereof the following:

"I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
"	$16.20	$84.50		$76	$93.80	$140.80
$16.21	16.84	85.80	$77	78	95.30	143.00
16.85	17.60	87.80	79	80	97.50	146.30
17.61	18.40	89.40	81	81	99.30	149.00
18.41	19.24	91.00	82	83	101.10	151.70
19.25	20.00	92.90	84	85	103.20	154.80
20.01	20.64	94.60	86	87	105.10	157.70
20.65	21.28	96.20	88	89	106.80	160.20
21.29	21.88	98.10	90	90	108.90	163.40
21.89	22.28	99.80	91	92	110.80	166.20
22.29	22.68	101.40	93	94	112.60	169.00
22.69	23.08	103.00	95	96	114.40	171.60
23.00	23.44	104.90	97	97	116.50	174.80
23.45	23.76	106.70	98	99	118.50	177.80
23.77	24.20	108.80	100	101	120.80	181.20
24.21	24.60	110.30	102	102	122.50	183.80
24.61	25.00	112.10	103	104	124.50	186.80
25.01	25.48	114.20	105	106	126.80	190.20
25.49	25.92	116.00	107	107	128.80	193.20
25.93	26.40	117.90	108	109	130.90	196.40
26.41	26.94	119.70	110	113	132.90	199.40
26.95	27.46	121.40	114	118	134.80	202.20
27.47	28.00	123.30	119	122	136.90	205.40
28.01	28.68	125.10	123	127	138.90	208.40
28.69	29.25	127.10	128	132	141.10	211.70
29.26	29.68	128.80	133	136	143.00	214.50
29.69	30.36	130.50	137	141	144.90	217.40
30.37	30.92	132.50	142	146	147.10	220.70
30.93	31.36	134.30	147	150	149.10	223.70
31.37	32.00	136.00	151	155	151.00	226.50
32.01	32.60	138.00	156	160	153.20	229.80
32.61	33.20	139.70	161	164	155.10	232.70
33.21	33.88	141.60	165	169	157.20	235.80
33.89	34.50	143.40	170	174	159.20	238.90
34.51	35.00	145.20	175	178	161.20	241.80
35.01	35.80	147.20	179	183	163.40	245.10
35.81	36.40	148.80	181	188	165.20	247.80
36.41	37.08	150.90	189	193	167.50	251.40
37.09	37.60	152.70	191	197	169.50	254.40
37.61	38.20	154.40	198	202	171.40	257.10
38.21	39.12	156.40	203	207	173.70	260.60
39.13	39.68	158.20	208	211	175.70	263.60
39.69	40.33	159.80	212	216	177.40	266.10
40.34	41.12	161.80	217	221	179.60	269.40
41.13	41.76	163.60	222	225	181.60	272.40
$41.77	$42.44	$165.50	$226	$230	$183.80	$275.70
42.45	43.20	167.30	231	235	185.80	278.70
43.21	43.76	169.40	236	239	188.10	282.00
43.77	44.44	171.00	240	244	189.90	286.20
44.45	44.88	172.70	245	249	191.70	292.10
44.89	45.60	174.80	250	253	194.10	296.80
		176.60	254	258	196.10	302.60
		178.10	259	263	197.70	308.40
		180.20	264	267	200.10	313.10
		182.00	268	272	202.10	319.00
		183.90	273	277	204.20	324.80
		185.70	278	281	206.20	329.50
		187.50	282	286	208.20	335.40
		189.50	287	291	210.40	341.30
		191.10	292	295	212.20	345.90
		193.10	296	300	214.40	351.70
		194.90	301	305	216.40	357.60
		196.60	306	309	218.30	362.40
		198.60	310	314	220.50	368.20
		200.30	315	319	222.40	374.10
		202.00	320	323	224.30	378.80
		204.00	324	328	226.50	384.70
		205.80	329	333	228.50	390.50
		207.90	334	337	230.80	395.20
		209.40	338	342	232.50	401.00
		211.20	343	347	234.50	406.90
		213.30	348	351	236.80	411.50
		215.00	352	356	238.70	417.40
		217.00	357	361	240.90	423.30
		218.70	362	365	242.80	428.00
		220.40	366	370	244.70	433.80
		222.40	371	375	246.90	439.60
		224.20	376	379	248.90	444.50
		226.20	380	384	251.10	450.30
		227.80	385	389	252.90	456.10
		229.60	390	393	254.90	460.80
		231.60	394	398	257.10	466.70
		233.30	399	403	259.00	472.60
		235.40	404	407	261.30	477.20
		236.90	408	412	263.00	483.10
		238.60	413	417	264.90	488.90
		240.30	418	421	266.80	493.00
		242.20	422	426	268.90	499.40
		243.80	427	431	270.70	505.30
		245.40	432	436	272.40	511.20

I		II	III		IV	V
(Primary insurance benefit under 1939 Act, as modified)		(Primary insurance amount effective for September 1972)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
"If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
"At least—	But not more than—		At least—	But not more than—		
		$247.40	$437	$440	$274.70	$513.50
		248.90	441	445	276.90	516.50
		250.60	446	450	278.20	519.40
		252.50	451	454	280.30	521.70
		254.10	455	459	282.10	524.60
		255.80	460	464	284.00	527.50
		257.40	465	468	285.80	530.00
		259.40	469	473	288.00	532.80
		260.90	474	478	289.60	535.80
		262.60	479	482	291.50	538.20
		264.50	483	487	293.60	541.20
		266.10	488	492	295.40	544.10
		267.80	493	496	297.30	546.40
		269.70	497	501	299.40	549.30
		271.20	502	506	301.10	552.20
		272.90	507	510	303.00	554.60
		274.60	511	515	304.90	557.50
		276.40	516	520	306.90	560.50
		278.10	521	524	308.70	562.70
		279.80	525	529	310.60	565.70
		281.70	530	534	312.70	568.60
		283.20	535	538	314.40	571.00
		284.90	539	543	316.30	573.90
		286.80	544	548	318.40	576.80
		288.40	549	553	320.20	579.80
		290.10	554	556	322.10	581.50
		291.50	557	560	323.60	583.90
		293.10	561	563	325.40	585.70
		294.60	564	567	327.10	588.00
		296.20	568	570	328.80	589.80
		297.60	571	574	330.40	592.00
		299.20	575	577	332.20	593.90
		300.60	578	581	333.70	595.10
		302.20	582	584	335.50	597.90
		303.60	585	588	337.00	600.30
		305.30	589	591	338.90	602.00
		306.80	592	595	340.60	604.40
		308.30	596	598	342.30	606.10
		309.80	599	602	343.90	608.60
		311.30	603	605	645.60	610.30
		312.80	606	609	347.30	612.90
		314.40	610	612	349.00	614.40
		315.90	613	616	350.70	616.70
		317.40	617	620	352.40	619.10
		318.90	621	623	354.00	620.80
		320.40	624	627	355.70	623.20
		321.90	628	630	357.40	625.30
		323.40	631	634	359.00	628.40
		325.00	635	637	360.80	631.30
		326.60	638	641	362.60	634.40
		328.00	642	644	364.10	637.20
		329.60	645	648	365.90	640.30
		331.00	649	652	367.50	643.10
		332.00	653	656	368.60	645.00
		332.90	657	660	369.60	646.70
		334.10	661	665	370.90	649.10
		335.30	666	670	372.20	651.40
		336.50	671	675	373.60	653.70
		337.70	676	680	374.90	658.10
		338.90	681	685	376.20	658.40
		340.10	686	690	377.60	660.70
		341.30	691	695	378.90	663.10
		342.50	696	700	380.20	665.40
		343.70	701	705	381.60	667.70
		344.90	706	710	382.90	670.00
		346.10	711	715	384.20	672.40
		347.30	716	720	385.60	674.70
		348.50	721	725	386.90	677.00
		349.70	726	730	388.20	679.40
		350.90	731	735	389.60	681.70
		352.10	736	740	390.90	684.00
		353.30	741	745	392.20	686.40
		354.50	746	750	393.50	688.70
		355.50	751	755	394.70	690.70
		356.50	756	760	395.80	692.60
		357.50	761	765	396.90	694.60
		358.50	766	770	398.00	696.50
		359.50	771	775	399.10	698.50
		360.50	776	780	400.20	700.30
		361.50	781	785	401.30	702.30
		362.50	786	790	402.40	704.20
		363.50	791	795	403.50	706.20
		365.50	796	800	404.60	708.10
		365.50	801	805	405.80	710.10
		366.50	806	810	406.90	712.00
		367.50	811	815	408.00	714.00
		368.50	816	820	409.10	715.90
		369.50	821	825	410.20	717.90
		370.50	826	830	411.30	719.80
		371.50	831	835	412.40	721.80
		372.50	836	840	413.50	723.70
		373.50	841	845	414.60	725.70
		374.50	846	850	415.70	727.50
		375.50	851	855	416.90	729.50
		376.50	856	860	418.00	731.40
		377.50	861	865	419.10	733.40
		378.50	866	870	420.20	735.30
		379.50	871	875	421.30	737.30
		380.50	876	880	422.40	739.20
		381.50	881	885	423.50	741.20
		382.50	886	890	442.60	743.10
		383.50	891	895	425.70	745.10
		384.50	896	900	426.80	747.00
		385.50	901	905	428.00	749.00
		386.50	906	910	429.10	750.90
		387.50	911	915	430.20	752.90
		388.50	916	920	431.30	754.70
		389.50	921	925	432.40	756.70
		390.50	926	930	433.50	758.60
		391.50	931	935	434.60	760.60
		392.50	936	940	435.70	762.50
		393.50	941	945	436.80	764.50
		394.50	946	950	437.90	766.40
		395.50	951	955	439.10	768.40
		396.50	956	960	440.20	770.03
		397.50	961	965	441.30	772.30
		398.50	966	970	442.40	774.20
		399.50	971	975	443.50	776.20
		400.50	976	980	444.60	778.00
		401.50	981	985	445.70	780.00
		402.50	986	990	446.80	781.90
		403.50	991	995	447.90	783.90
		404.50	996	1,000	449.00	785.80
			1,001	1,005	450.00	787.50
			1,006	1,010	451.00	789.30
			1,011	1,015	452.00	791.00
			1,016	1,020	453.00	792.80
			1,021	1,025	454.00	794.50
			1,026	1,030	455.00	796.30
			1,031	1,035	456.00	798.00
			1,036	1,040	457.00	799.80
			1,041	1,045	458.00	801.50
			1,046	1,050	459.00	803.30
			1,051	1,055	460.00	805.00
			1,056	1,060	461.00	806.80
			1,061	1,065	462.00	808.50
			1,066	1,070	463.00	810.30
			1,071	1,075	464.00	812.00
			1,076	1,080	465.00	813.80
			1,081	1,085	466.00	815.50
			1,086	1,090	467.00	817.30
			1,091	1,095	468.00	819.00
			1,096	1,100	469.00	820.80

(b)(1) Effective June 1, 1974, sections 227 and 228 of the Social Security Act are amended by striking out "$58.00" wherever it appears and inserting in lieu thereof "the larger of $64.40 or the amount most recently established in lieu thereof under section 215(i)", and by striking out "$29.00" wherever it appears and inserting in lieu thereof "the larger of $32.20 or the amount most recently established in lieu thereof under section 215(i)".

(2) Section 202(a)(4) of Public Law 92-336 is hereby repealed.

(c) The amendment made by subsections (a) and (b) shall apply with respect to monthly benefits under title II of the Social Security Act for months after May 1974, and with respect to lump-sum death payments under section 201(i) of such Act in the case of deaths occurring after such month.

(d) Section 202(a)(3) of Public Law 92-336 is amended by striking out "January 1, 1975" in subparagraphs (A), (B), and (C) and inserting in lieu thereof in each instance "June 1, 1974".

MODIFICATION OF COST-OF-LIVING BENEFIT INCREASE PROVISIONS

SEC. 3. (a) Clause (i) of section 215(i)(1)(A) of the Social Security Act is amended to read as follows: "(i) the calendar quarter ending on March 31 of each year after 1974, or".

(b) Clause (ii) of section 215(i)(1)(B) of such Act is amended by striking out "in which a law" and all that follows and inserting in lieu thereof "if in the year prior to such year a law has been enacted providing a general benefit increase under this title or

if in such prior year such a general benefit increase becomes effective; and".

(c) Section 215(i)(2)(A)(i) of such Act is amended by striking out "1974" and inserting in lieu thereof "1975", and by striking out "and to subparagraph (E) of this paragraph".

(d) Section 215(i)(2)(A)(ii) of such Act is amended—

(1) by striking out "such base quarter" and inserting in lieu thereof "the base quarter in any year";

(2) by striking out "January of the next calendar year" and inserting in lieu thereof "June of such year"; and

(3) by striking out "(subject to subparagraph (E))".

(e) Section 215(i)(2)(B) of such Act is amended by striking out "December" each place it appears and inserting in lieu thereof "May", and by striking out "(subject to subparagraph (E))".

(f) Section 215(i)(2)(C)(ii) of such Act is amended by striking out "on or before August 15 of such calendar year" and inserting in lieu thereof "within 30 days after the close of such quarter".

(g) Section 215(i)(2)(D) of such Act is amended by striking out "on or before November 1 of such calendar year" and inserting in lieu thereof "within 45 days after the close of such quarter".

(h) Section 215(i)(2) of such Act is amended by striking out subparagraph (E).

(i) For purposes of sections 203(f)(8), 215(i)(1)(B), and 230(a) of the Social Security Act, the increase in benefits provided by section 2 of this Act shall be considered an increase under section 215(i) of the Social Security Act.

(j)(1) Section 230(a) of such Act is amended—

(A) by striking out "with the first month of the calendar year" and inserting in lieu thereof "with the June"; and

(B) by striking out "(along with the publication of such benefit increase as required by section 215(i)(2)(D))" and by striking out "(unless such increase in benefits is prevented from becoming effective by section 215(i)(2)(E))".

(2) Section 230(c) of such Act is amended by striking out "the first month" and inserting in lieu thereof "the June".

(k)(1) Section 203(f)(8)(A) of such Act is amended to read as follows:

"(A) Whenever the Secretary pursuant to section 215(i) increases benefits effective with the month of June following a cost-of-living computation quarter he shall also determine and publish in the Federal Register on or before November 1 of the calendar year in which such quarter occurs a new exempt amount which shall be effective (unless such new exempt amount is prevented from becoming effective by subparagraph (C) of this paragraph) with respect to any individual's taxable year which ends after the calendar year in which such benefit increase is effective (or, in the case of an individual who dies during the calendar year after the calendar year in which the benefit increase is effective, with respect to such individual's taxable year which ends, upon his death, during such year),".

(2) Section 203(f)(8)(B) of such Act is amended by striking out "no later than Auguest 15 of such year" and inserting in lieu thereof "within 30 days after the close of the base quarter (as defined in section 215(i)(1)(A)) in such year".

(3) Section 203(f)(8)(C) is amended by striking out "or providing a general benefit increase under this title (as defined in section 215(i)(3))".

SUPPLEMENTAL SECURITY INCOME BENEFITS

SEC. 4. (a)(1) Section 210(c) of Public Law 93–66 is amended by striking out "June 1974" and inserting in lieu thereof "December 1973".

(2) Section 211(a)(1)(A) of Public Law 93–66 is amended by striking out "($780 in the case of any period prior to July 1974)".

(b) Effective with respect to payments for months after June 1974—

(1) section 1611(a)(1)(A) and section 1611(b)(1) of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972 and amended by section 210 of Public Law 93–66) are each amended by striking out "$1,680" and inserting in lieu thereof "$1,752";

(2) section 1611(a)(2)(A) and section 1611(b)(2) of such Act (as so enacted and amended) are each amended by striking out "$2,520" and inserting in lieu thereof "$2,628"; and

(3) section 211(a)(1)(A) of Public Law 93–66 (as amended by subsection (a)(2) of this section) is amended by striking out "$840" and inserting in lieu thereof "$876".

INCREASE IN EARNINGS BASE

SEC. 5. (a)(1) Section 209(a)(8) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Section 211(b)(1)(H) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(3) Sections 213(a)(2)(ii) and 213(a)(2)(iii) of such Act are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(4) Section 215(e)(1) of such Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(b)(1) Section 1402(b)(1)(H) of the Internal Revenue Code of 1954 (relating to definition of self-employment income is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(2) Effective with respect to remuneration paid after 1973, section 3121(a)(1) of such Code is amended by striking out the dollar amount each place it appears therein and inserting in lieu thereof "$13,200".

(3) Effective with respect to remuneration paid after 1973, the second sentence of section 3122 of such Code is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(4) Effective with respect to remuneration paid after 1973, section 3125 of such Code is amended by striking out the dollar amount each place it appears in subsections (a), (b), and (c) and inserting in lieu thereof "$13,200".

(5) Section 6413(c)(1) of such Code (relating to special refunds of employment taxes) is amended by striking out "$12,600" each place it appears and inserting in lieu thereof "$13,200".

(6) Section 6413(c)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(7) Effective with respect to taxable years beginning after 1973, section 6654(d)(2)(B)(ii) of such Code (relating to failure by individual to pay estimated income tax) is amended by striking out the dollar amount and inserting in lieu thereof "$13,200".

(c) Section 230(c) of the Social Security Act is amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(d) Paragraphs (2)(C), (3)(C), (4)(C), and (7)(C) of section 203(b) of Public Law 92–336 are each amended by striking out "$12,600" and inserting in lieu thereof "$13,200".

(e) The amendments made by this section, except subsection (a)(4), shall apply only with respect to remuneration paid after, and taxable years beginning after, 1973. The amendments made by subsection (a)(4) shall apply with respect to calendar years after 1973.

(f) The amendments made by this section to provisions of the Social Security Act, the Internal Revenue Code of 1954, and Public Law 92–336 shall be deemed to be made to such provisions as amended by section 203 of Public Law 93–66.

CHANGES IN TAX SCHEDULES

SEC. 6. (a)(1) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages received during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages received during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages received after December 31, 2010, the rate shall be 5.95 percent."

(2) Section 3111(a) of such Code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (4) through (6) and inserting in lieu thereof the following:

"(4) with respect to wages paid during the calendar year 1973, the rate shall be 4.85 percent;

"(5) with respect to wages paid during the calendar years 1974 through 2010, the rate shall be 4.95 percent; and

"(6) with respect to wages paid after December 31, 2010, the rate shall be 5.95 percent.".

(b)(1) Section 1401(b) of such Code (relating to rate of tax on self-employment income for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) in the case of any taxable year beginning after December 31, 1972, and before January 1, 1974, the tax shall be equal to 1.0 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1973, and before January 1, 1978, the tax shall be equal to 0.90 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1981, the tax shall be equal to 1.10 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1986, the tax shall be equal to 1.35 percent of the amount of the self-employment income for such taxable year; and

"(6) in the case of any taxable year beginning after December 31, 1985, the tax shall be equal to 1.50 percent of the self-employment income for such taxable year."

(2) Section 3101(b) of such Code (relating to rate of tax on employees for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages received during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages received during the calendar years 1978 through 1980, the rate shall be 1.10 percent;

"(5) with respect to wages received during the calendar years 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages received after December 31, 1985, the rate shall be 1.50 percent.".

(3) Section 3111(b) of such Code (relating to rate of tax on employers for purposes of hospital insurance) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following:

"(2) with respect to wages paid during the calendar year 1973, the rate shall be 1.0 percent;

"(3) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 0.90 percent;

"(4) with respect to wages paid during the calendar years 1978 through 1980, the rate shall be 1.10 percent.

"(5) with respect to wages paid during the calendar year 1981 through 1985, the rate shall be 1.35 percent; and

"(6) with respect to wages paid after December 31, 1985, the rate shall be 1.50 percent.".

(c) The amendment made by subsection (b)(1) shall apply only with respect to taxable years beginning after December 31, 1973. The remaining amendments made by this section shall apply only with respect to remuneration paid after December 31, 1973.

ALLOCATION TO DISABILITY INSURANCE TRUST FUND

SEC. 7. (a) Section 201(b)(1) of the Social Security Act is amended by striking out "(E)" and all that follows down through "which wages" and inserting in lieu thereof the following: "(E) 1.1 per centum of the wages (as so defined) paid after December 31, 1972, and before January 1, 1974, and so reported, (F) 1.15 per centum of the wages (as so defined) paid after December 31, 1973, and before January 1, 1978, and so reported, (G) 1.2 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1981, and so reported, (H) 1.3 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1986, and so reported, (I) 1.4 per centum of the wages (as so defined) paid after December 31, 1985, and before January 1, 2011, and so reported, and (J) 1.7 per centum of the wages (as so defined) paid after December 31, 2010, and so reported, which wages".

(b) Section 201(b)(2) of such Act is amended by striking out "(E)" and all that follows down through "which self-employment income" and inserting in lieu thereof the following: "(E) 0.795 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1972, and before January 1, 1974, (F) 0.815 of 1 per centum of the amount of self-employment income (as so defined) as reported for any taxable year beginning after December 31, 1973, and before January 1, 1978, (G) 0.850 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1981, (H) 0.920 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1986, (I) 0.990 of 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1985, and before January 1, 2011, and (J) 1 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 2010, which self-employment income".

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

SEC. 8. (a)(1) Section 3(e) of the Food Stamp Act of 1964 is amended effective only for the 6-month period beginning January 1, 1974 to read as it did before amendment by Public Law 92-603 and Public Law 93-86, but with the addition of the following new sentence at the end thereof: "For the 6-month period beginning January 1, 1974 no individual who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212. (a) of Public Law 93-66, shall be considered to be a member of a household or an elderly person for purposes of this Act for any month during such period, if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.".

(2) Section 3(b) of Public Law 93-86 shall not be effective for the 6-month period beginning January 1, 1974.

(b)(1) Section 4(c) of Public Law 93-86 shall not be effective for the 6-month period beginning January 1, 1974.

(2) The last sentence of section 416 of the Act of October 31, 1949 (as added by section 411(g) of Public Law 92-603) shall not be effective for the 6-month period beginning January 1, 1974.

(3) For the 6-month period beginning January 1, 1974, no individual, who receives supplemental security income benefits under title XVI of the Social Security Act, State supplementary payments described in section 1616 of such Act, or payments of the type referred to in section 212(a) of Public Law 93-66, shall be considered to be a member of a household for any purpose of the food distribution program for families under section 32 of Public Law 74-320, section 416 of the Agricultural Act of 1949, or any other law, for any month during such period. if, for such month, such individual resides in a State which provides State supplementary payments (A) of the type described in section 1616(a) of the Social Security Act, and (B) the level of which has been found by the Secretary of Health, Education, and Welfare to have been specifically increased so as to include the bonus value of food stamps.

(c) For purposes of the last sentence of section 3(e) of the Food Stamp Act of 1934 (as amended by subsection (a) of this section) and subsections (b)(3) and (f) of this section, the level of State supplementary payment under section 1616(a) shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 and which is such that the limitation on State fiscal liability under section 401 does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at is option, elect.

(d) Section 401(b)(1) of the Social Security Amendments of 1972 is amended by striking out everything after the word "exceed" and inserting in lieu thereof: "a payment level modification (as defined in paragraph (2) of his subsection) with respect to such plans."

(e) The amendment made by subsection (d) shall be effective only for the 6-month period beginning January 1, 1974, except that such amendment shall not during such period, be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps.

INDIVIDUALS DEEMED TO BE DISABLED UNDER THE SUPPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 9. Section 1614(a)(3) of the Social Security Act is amended—

(1) by striking out the last sentence of subparagraph (A); and

(2) by inserting at the end thereof the following new subparagraph:

"(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.".

SUPPLEMENTAL SECURITY INCOME RECIPIENT LIVING IN AID TO FAMILIES WITH DEPENDENT CHILDREN HOUSEHOLD

SEC. 10. (a) Section 212(a)(3)(A) of Public Law 93-66 is amended by striking out "subparagraph (D)" and inserting in lieu thereof "subparagraph (D) and (E)".

(b) Section 212(a)(3) of Public Law 93-66 is amended by adding at the end thereof the following new subparagraph:

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of he Social Security Act, such State at its option, may (subject to clause (ii) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

"(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall no be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act, and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, XIV, or XVI of the Social Security Act."

CONTINUATION OF CERTAIN DEMONSTRATION PROJECTS

SEC. 11. (a) If any State (other than the Commonwealth of Puerto Rico, the Virgin Islands, or Guam) has any experimental, pilot, or demonstration project (referred to in section 1115 of the Social Security Act)—

(1) which (prior to October 1, 1973) has been approved by the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary"), for a period which ends on or after December 31, 1973, as being a project with respect to which the authority conferred upon him by subsection (a) or (b) of such section 1115 will be exercised, and

(2) with respect to the costs of which Federal financial participation would (except for the provisions of this section) be denied or reduced on account of the enactment of section 301 of the Social Security Amendments of 1972,

then, for any period (after December 31, 1973) with respect to which such project is approved by the Secretary, Federal financial participation in the costs of such project shall be continued in like manner as if—

(3) such section 301 had not been enacted, and

(4) such State (for the month of January 1974 and any month thereafter) continued to have in effect the State plan (approved under title XVI) which was in effect for the month of October 1973, or the State plans (approved under titles I, X, and XIV of the Social Security Act) which were in effect for such month, as the case may be.

(b) With respect to individuals—

(1) who are participants in any project to which the provisions of subsection (a) are applicable, and

(2) with respect to whom supplemental security income benefits are (or would, except for their participation in such project, be) payable under title XVI of the Social Security Act, or who meet the requirements for aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act of the State in which such project is conducted (as such State plan was in effect for July 1973).

the Secretary may waive such requirements of title XVI of such Act (as enacted by section 301 of the Social Security Amendments of 1972) to such extent as he determines to be necessary to the successful operation of such project.

(c) In the case of any State which has entered into an agreement with the Secretary under section 1616 of the Social Security Act (or which is deemed, under section 212(d) of Public Law 93–66, to have entered into such an agreement), then, of the costs of any project of such State with respect to which there is (solely by reason of the provisions of subsection (a)) Federal financial participation, the non-Federal share thereof shall—

(1) be paid, from time to time, to such State by the Secretary, and

(2) shall, for purposes of section 1616(d) of the Social Security Act and section 401 of the Social Security Amendments of 1972, be treated in like manner as if such non-Federal share were supplementary payments made by the Secretary on behalf of such State pursuant to such agreement.

SOCIAL SERVICES REGULATIONS POSTPONED

SEC. 12. (a) Subject to subsection (b), no regulation and no modification of any regulation, promulgated by the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") after January 1, 1973, shall be effective for any period which begins prior to January 1, 1975, if (and insofar as) such regulation or modification of a regulation pertains (directly or indirectly) to the provisions of law contained in sections 3(a)(4)(A), 402(a)(19)(G), 403(a)(3)(A), 603(a)(1)(A), 1003(a)(3)(A), 1403(a)(3)(A), or 1603(a)(4)(A), of the Social Security Act.

(b) (1) The provisions of subsection (a) shall not be applicable to any regulation relating to "scope of programs", if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.0 of the regulations (relating to social services) proposed by the Secretary and published in the Federal Register on May 1, 1973. There shall be deleted from the first sentence of subsection (b) of such section 221.0 the phrase "meets all the applicable requirements of this part and".

(2) The provisions of subsection (a) shall not be applicable to any regulation relating to "limitations on total amount of Federal funds payable to States for services", if such regulation is identical (except as provided in the succeeding sentence) to the provisions of section 221.55 of the regulations so proposed and published on May 1, 1973. There shall be deleted from subsection (d) (1) of such section 221.55 the phrase "(as defined under day care services for children)"; and, in lieu of the sentence contained in subsection (d) (5) of such section 221.55, there shall be inserted the following: "Services provided to a child who is under foster care in a foster family home (as defined in section 408 of the Social Security Act) or in a childcare institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed by such child because he is under foster care.".

(3) The provisions of subsection (a) shall not be applicable to any regulation relating to "rates and amounts of Federal financial participation for Puerto Rico, the Virgin Islands, and Guam", if such regulation is identical to the provisions of section 221.56 of the regulations so proposed and published on May 1, 1973.

(4) The provisions of subsection (a) shall not be construed to preclude the Secretary from making any modification in any regulation (described in subsection (a)) if such modification is technically necessary to take account of the enactment of section 301 or 302 of the Social Security Amendments of 1972.

(c) Notwithstanding the provisions of section 553 (d) of title 5, United States Code, any regulation described in subsection (b) may become effective upon the date of its publication in the Federal Register.

MEDICAL ELIGIBILITY FOR SUPPLEMENTAL SECURITY INCOME RECIPIENTS

Beneficiaries

SEC. 13. (a) (1) Section 1901 of the Social Security Act (as amended by Public Law 92–603) is amended by striking out "permanently and totally disabled" and inserting "disabled" in lieu thereof.

(2) Section 1902(a)(5) of such Act is amended by—

(A) striking out "to administer the plan," and inserting in lieu thereof, "to administer or to supervise the administration of the plan;" and by striking out "to supervise the administration of the plan" and inserting in lieu thereof "to administer or to supervise the administration of the plan" in lieu thereof; and

(B) striking out "XVI (insofar as it relates to the aged)" and inserting "XVI (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under title XVI, or by the agency or agencies administering the supplemental security income program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the State plan program established under title XVI" in lieu thereof.

(3) Section 1902(a)(10) of such Act is amended to read as follows:

"(10) provide—

"(A) for making medical assistance available to all individuals receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI;

"(B) that the medical assistance made available to any individual described in clause (A)—

"(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

"(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in clause (A); and

"(C) if medical assistance is included for any group of individuals who are not described in clause (A) and who do not meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, as determined in accordance with standards prescribed by the Secretary—

"(i) for making medical assistance available to all individuals who would, except for income and resources, be eligible for aid or assistance under any such State plan or to have paid with respect to them supplemental security income benefits under title XVI, and who have insufficient (as determined in accordance with comparable standards) income and resources to meet the costs of necessary medical and remedial care and services, and

"(ii) that the medical assistance made available to all individuals not described in clause (A) shall be equal in amount, duration, and scope;

except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1905(a) to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of title XVIII for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, and (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A);".

(4) Section 1902(a)(13)(B) of such Act is amended by striking out "the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI" in lieu thereof.

(5) Section 1902(a)(14)(A) of such Act is amended by striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV, or who meet the income and resources requirements of the one of such State plans which is appropriate" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or who meet the income and resources requirements of the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, and individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not n a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assitance made available to individuals described in paragraph (10)(A)" in lieu thereof.

(6) Section 1902(a)(14)(B) of such Act is amended by—

(A) inserting "(other than individuals with respect to whom there is being paid, or who are eligible or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment and are eligible for

medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in paragraph (10(A))" immediately after "with respect to individuals";

(B) inserting "and with respect to whom supplemental security income benefits are not being paid under title XVI" immediately after "any such State plan";

(C) striking out "the one of such State plans which is appropriate" and inserting "the appropriate State plan, or the supplemental security income program under title XVI, as the case may be, in lieu thereof; and

(D) striking out "or who, after December 31, 1973, are included under the State plan for medical assistance pursuant to section 1902(a)(10)(B) approved under title XIX".

(7) Section 1902(a)(17) of such act is amended by—

(A) striking out "the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof;

(B) striking out "if he met the requirements as to need" and inserting "except for income and resources" in lieu thereof;

(C) striking out "a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "any plan of the State approved under title I, X, XIV, or XVI, of part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI" in lieu thereof; and

(D) striking out "and amount of such aid or assistance under such plan" and inserting "such aid, assistance, or benefits" in lieu thereof.

(8) Sections 1902(a)(17) and 1902(a)(18) are each amended by striking out "is blind or permanently and totally disabled" and inserting "(with respect to States eligible to participate in the State program established under title XVI), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614 (with respect to States which are not eligible to participate in such program)" in lieu thereof.

(9) Section 1902(a)(20)(C) of such Act is amended by inserting ", section 603(a)(1)(A)(i) and (ii)," immediately after "section 3(a)(4)(A)(i) and (ii)".

(10) Section 1902(f) of such act is amended by—

(A) inserting "not eligible to participate in the State plan program established under title XVI" immediately after "State" the first time it appears therein.

(B) striking out "such individual's payment under title XVI" and inserting "any supplemental security income payment and State supplementary payment made with respect to such individual" in lieu thereof;

(C) striking out "as defined in section 213 of the Internal Revenue Code of 1954" and inserting "as recognized under State law" in lieu thereof; and

(D) inserting at the end thereof the following new sentences: "In States which provide medical assistance to individuals pursuant to clause (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under clause (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under clause (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to clause (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical exepnses from income shall be considered an individual eligible for medical assistance under clause (10)(A) of that subsection.".

(11) Section 1903(a)(1) of such Act is amended by striking out "individuals who are recipients of money payments under a State plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)" in lieu thereof.

(12) Section 1903(f)(4) of such Act is amended to read as follows:

"(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual—

"(A) who is receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or

"(B) who is not receiving such aid or assistance, and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

"(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplementary security income benefit rate established by section 1611(b)(1),

at the time of the provision of the medical assistance giving rise to such expenditure."

(13) The matter before clause (1) in section 1905(a) of such Act is amended by striking out "individuals not receiving aid or assistance under the State's plan approved under title I, X, XIV, or XVI, or part A of title IV" and inserting "individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI" in lieu thereof.

(14) Section 1905(a)(iv) of such Act is amended by inserting "with respect to States eligible to participate in the State plan program established under title XVI," at the end thereof.

(15) Section 1905(a)(v) of such Act is amended by striking out "or" inserting "with respect to States eligible to participate in the State plan program established under title XVI," in lieu thereof.

(16) Section 1905(a)(vi) of such Act is amended by inserting "or" at the end thereof.

(17) Section 1905(a) of such Act is further amended by inserting immediately after clause (vi) the following new clause:

"(vii) blind or disabled as defined in section 1614, with respect to States not eligible under the title XVI,".

(18) Section 1905 of such Act is amended by inserting at the end thereof the following new subsections:

"(j) The term 'State supplementary payment' means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Secretary), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

"(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93–66 shall not be considered supplemental security income benefits payable under title XVI.".

Technical Clarification and Modification of Medicaid Eligibility and Federal Title XIX Matching Under Public Law 93–66.

(b)(1)(A) Clause (2)(A) of section 231 of Public Law 93–66 is amended by—

(i) inserting "received or" immediately before "would", and

(ii) strking out "or" at the end thereof and inserting "and" in lieu thereof.

(B) Clause (2)(B) of that section is amended by—

(i) striking out "was", and

(ii) striking out "need for care in such institution, considered to be eligible for aid or assistance under a State plan (referred to in subparagraph (A)) for purposes of determining his eligibility" and inserting "status as described in subparagraph (A), was included as an individual eligible" in lieu thereof.

(2) The first sentence of section 232 of Public Law 93–66 is amended by—

(A) striking out "(under the provisions of subparagraph (B) of such section)".

(B) striking out "to be a person described as being a person who 'would, if needy, be eligible for and or assistance under any such State plan' in subparagraph (B)(i) of such section" and inserting "for purposes of title XIX to be an individual who is blind or disabled within the meaning of section 1614(a) of the Social Security Act" in lieu thereof,

(C) inserting ", and the other conditions of eligibility contained in the plan of the State approved under title XIX (as it was in effect in December 1973)" before the period at the end thereof.

Medicaid Eligibility for Individuals Receiving Mandatory State Supplementary Payments

(c) In addition to other requirements imposed by law as conditions for the approval of any State plan under title XIX of the Social Security Act, there is hereby imposed (effective January 1, 1974) the requirement

(and each such State plan shall be deemed to require) that medical assistance under such plan shall be provided to any individual—

(1) for any month for which there (A) is payabale with respect to such individual a supplementary payment pursuant to an agreement entered into between the State and the Secretary of Health, Education, and Welfare under section 212(a) of Public Law 93–66, and (B) would be payable with respect to such individual such a supplementary payment, if the amount of the supplementary payments payable pursuant to such agreement were established without regard to paragraph (3)(A) (ii) of such section 212 (a), and

(2) in like manner, and subject to the same terms and conditions, as medical assistance is provided under such plan to individuals with respect to whom benefits are payable for such month under the supplementary security income program established by title XVI of the Social Security Act.

Federal matching under title XIX of the Social Security Act shall be available for the medical assistance furnished to individuals who are eligible for such assistance under this subsection.

EFFECTIVE DATES

(d) The amendements made by subsection (a) shall be effective with respect to payments under section 1903 of the Social Security Act for calendar quarters commencing after December 31, 1973.

PAYMENTS TO SUBSTANDARD FACILITIES UNDER MEDICAID

SEC. 14. Section 1616 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(e) Payments made under this title with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a)) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any other type of remedial care provided by an institution to such individual as an inpatient of such institution in the case of any State which has a plan approval under title XIX of this Act if such care is (or could be) provided under a State plan approved under title XIX of this Act by an institution certified under such title XIX."

PAYMENT FOR SERVICES OF PHYSICIANS RENDERED IN A TEACHING HOSPITAL

SEC. 15. (a)(1) Notwithstanding any other provision of law, the provisions of section 1861(b) of the Social Security Act, shall subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if pargraph (7) of such section read as follows:

"(7) a physician where the hospital has a teaching program approved as specified in paragraph (6), if (A) the hospital elects to receive any payment due under this title for reasonable costs of such services, and (B) all physicians in such hospital agree not to bill charges for professional services rendered in such hospital to individuals covered under the insurance program established by this title.".

(2) Notwithstanding any other provision of law, the provisions of section 1832(a)(2)(B)(i) of the Social Security Act shall, subject to subsection (b) of this section, for the period with respect to which this paragraph is applicable, be administered as if subclause II of such section read as follows:

"(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of section 1861 (b) (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital), where the conditions specified in paragraph (7) of such section are met, and".

(b) The provisions of subsection (a) shall not be deemed to render improper any determination of payment under title XVIII of the Social Security Act for any service provided prior to the enactment of this Act.

(c)(1) The Secretary of Health, Education, and Welfare shall arrange for the conduct of a study or studies concerning (A) appropriate and equitable methods of reimbursement for physicians' services under titles XVIII and XIX of the Social Security Act in hospitals which have a teaching program approved as specified in Section 1861(b)(6) of such Act, (B) the extent to which funds expended under such titles are supporting the training of medical specialties which are in excess supply, (C) how such funds could be expended in ways which support more rational distribution of physician manpower both geographically and by specialty, (D) the extent to which such funds support or encourage teaching programs which tend to disproportionately attract foreign medical graduates, and (E) the existing and appropriate role that part of such funds which are expended to meet in whole or in part the cost of salaries of interns and residents in teaching programs approved as specified in section 1861(b)(6) of such Act.

(2) The studies required by paragraph (1) shall be the subject of an interim report thereon submitted not later than December 1, 1974, and a final report not later than July 1, 1975. Such reports shall be submitted to the Secretary, the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives, simultaneously.

(3) The Secretary shall request the National Academy of Sciences to conduct such studies under an arrangement under which the actual expenses incurred by such Academy in conducting such studies will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such an arrangement with such Academy for the conduct of such studies.

(4) If the National Academy of Sciences is unwilling to conduct the studies required under this section, under such an arrangement with the Secretary, then the Secretary shall enter into a similar arrangement with other appropriate non-profit private groups or associations under which such groups or associations shall conduct such studies and prepare and submit the reports thereon as provided in paragraph (2).

(5) The Social Security Administration shall study the interim report called for in paragraph (2) and shall submit its analysis of such interim report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than March 1, 1975. The Social Security Administration shall study and submit its analysis of the final report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives by October 1, 1975.

(d) The provisions of subsection (a) shall apply with respect to cost accounting periods beginning after June 30, 1973, and prior to January 1, 1975 except that if the Secretary of Health, Education, and Welfare determines that additional time is required to prepare the report required by subsection (c), he may by regulation, extend the applicability of the provisions of subsection (a) to cost accounting periods beginning after June 30, 1975.

BASIS OF MEDICARE PAYMENT FOR SERVICES PROVIDED BY AGENCIES AND PROVIDERS

SEC. 16. In the administration of titles V, XVIII, and XIX of the Social Security Act, the amount payable under such title to any provider of services on account of services provided by such hospital, skilled nursing facility, or home health agency shall be determined (for any period with respect to which the amendments made by section 233 of Public Law 92–603 would, except for the provisions of this section, be applicable) in like manner as if the date contained in the first and second sentences of subsection (f) of such section 233 were December 31, 1973, rather than December 31, 1972.

POSTPONEMENT ON EFFECTIVE DATE OF CERTAIN REQIREMENTS IMPOSED WITH RESPECT TO PAYMENT FOR PHYSICAL THERAPY SERVICES

SEC. 17. (a) In the administration of title XVIII of the Social Security Act, the amount payable thereunder with respect to physical thereapy and other services referred to in section 1861(v)(5)(A) of such Act (as added by section 151 (c) of the Social Security Amendments of 1972) shall be determined (for the period with respect to which the amendment made by such section 151(c) would, except for the provisions of this section, be applicable) in like manner as if the "December 31, 1972", which appears in such subsection (d)(3) of such section 151, read "the month in which there are promulgated, by the Secretary of Health, Education, and Welfare, final regulations implementing the provisions of section 1861(v)(5) of the Social Security Act".

CLERICAL AND CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT

In General

Inclusion of all Wage Level Increases in Automatic Adjustment of Earning Test

SEC. 18. (a) Section 203(f)(8)(B)(ii) of the Social Security Act is amended by—

(1) striking out "contribution and benefit base" and inserting "exempt amount" in lieu thereof; and

(2) striking out "section 230(a)" and inserting "subparagraph (A)" in lieu thereof.

Inclusion in Old-Age Insurance Benefit in Certain Cases of Related Retirement

(b) Section 202(w) of such Act is amended be inserting at the end thereof the following new paragraph:

"(5) If an individual's primary insurance amount is determined under paragraph (3) of section 215(a) and, as a result of this subsection, he would be entitled to a higher old-age insurance benefit if his primary insurance amount were determined under section 215(a) without regard to such paragraph, such individual's old-age insurance benefit based upon his primary insurance amount determined under such paragraph shall be increased by an amount equal to the difference between such benefit and the benefit to which he would be entitled if his primary insurance amount were determined under such section without regard to such paragraph."

Elimination of Benefit at Age 72 for Uninsured Individual Receiving Supplemental Security Income Benefits

(c) Section 228(d) of such Act is amended by inserting "and such individual is not an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for the following month, nor shall such benefit be paid for such month if such individual is an individual with respect to whom supplemental security income benefits are payable pursuant to title XVI or section 211 of Public Law 93–66 for such month, unless the Secretary determines that such benefits are not payable with respect to such individual for the month following such month" immediately before the period at the end thereof.

Limitations on Eligibility Determinations Under Resources Tests of State Plans

(d) Section 1611 of such Act (as amended by Public Law 92–603) is amended by striking out subsection (g) and inserting in lieu thereof the following new subsection:

"(g) In the case of any individual or any individual and his spouse (as the case may be) who—

"(1) received aid or assistance for December 1973 under a plan of a State approved under title I, X, XIV, or XVI,

"(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

"(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in sections 1611(a)(1)(B) and 1611(a)(2)(B) during any period that the resources of such individual or individuals and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973."

Limitations on Eligibility and Benefit Determinations Under Income Tests of State Plans for Aid to the Blind

(e) Section 1611 of such Act is amended by striking out subsection (h) and inserting in lieu thereof the following new subsection:

"(h) In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

"(1) received aid or assistance for December 1973 under a plan of a State approved under title X or XVI,

"(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

"(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973.

"(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) on eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1612 without application of this subsection."

Correction of Erroneous-Designations and Cross-References

(f)(1) Section 226 of such Act is amended by—

(A) redesignating subsection (a)(1) as subsection (a);

(B) redesignating clauses (A) and (B) of subsection (a), as redesignated by this subsection, as clauses (1) and (2), respectively; and

(C) redesignating subsection (f) (as added by section 201(b)(5) of the Social Security Amendments of 1972 and redesignated by section 2991 of that Act) and the subsection (f) (as enacted by section 101 of the Social Security Amendments of 1965 and redesignated by section 201(b)(5) of the Social Security Amendments of 1972) as subsections (h) and (i), respectively; and by inserting such subsections (h) and (i) (as so redesignated) immediately after subsection (g) of such section.

(2) Section 226(h)(1)(A) of such Act, as redesignated by this subsection, is amended by striking out "and 202(e)(5), and the term 'age 62' in sections" and inserting ", 202(e)(5)," in lieu thereof.

(3) Section 226(h)(1)(B) of such Act, as redesignated by this subsection, is amended by striking out "shall" and inserting "and the phrase 'before he attained age 60' in the matter following subparagraph (G) of section 202(f)(1) shall each" in lieu thereof.

(4) Paragraphs (2) and (3) of section 226(h) of such Act, as redesignated by this subsection, are each amended by striking out "(a)(2)" and inserting "(b)" in lieu thereof.

Initial Payments to Presumptively Disabled Individuals Unrecoverable Only if Individual Is Ineligible Because Not Disabled

(g) Section 1631(a)(4)(B) of such Act is amended by inserting "solely because such individual is determined not to be disabled" immediately before the period at the end thereof.

Technical Correction of Limitation on Fiscal Liability of States for Optional Supplementation

(h)(1) Section 401(a)(1) of the Social Security Amendments of 1972 is amended by—

(A) inserting ", other than fiscal year 1974," immediately after "any fiscal year"; and

(B) inserting ", and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures" immediately before the period of the end thereof.

(2) Section 401(c)(1) of such Act is amended by inserting "excluding" immediately before "expenditures authorized under section 1119".

Modification of Transitional Administrative Provisions

(i) Section 402 of the Social Security Amendments of 1972 is amended by—

(1) striking out "XVI" the first time that it appears therein and inserting "VI" in lieu thereof;

(2) inserting "the third and fourth quarters in the fiscal year ending June 30, 1974, and" immediately after "with respect to expenditures for"; and

(3) inserting "the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of" immediately after "during such portion of".

Inclusion of Title VI in Limitation on Grants to States for Social Services

(j) Section 1130(a) of such Act is amended by inserting "603(a)(1)," immediately after "403(a)(3),".

Clarification of Coverage of Hospitalization for Dental Services

(k)(1) Section 1814(a)(2)(E) of such Act (as amended by Public Law 92-603) is amended to read as follows:

"(E) in the case of inpatient hospital services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such dental services;".

(2) The last sentence of section 1814(a) is amended by striking out "or (D)" and inserting "(D), or (E)" in lieu thereof.

(3) Section 1862(a)(12) of such Act is amended by striking out "a dental procedure" and all that follows thereafter, and inserting "the provision of such dental services if the individual, because of his underlying medical condition and clinical status, requires hospitalization in connection with the provision of such services; or" in lieu thereof.

Continuation of State Agreements for Coverage of Certain Individuals

(l) Section 1843(b) of such Act is amended by adding at the end thereof the following: "Effective January 1, 1974, and subject to section 1902(f), the Secretary shall, at the request of any State not eligible to participate in the State plan program established under title XVI, continue in effect the agreement entered into under this section with such State subject to such modifications as the Secretary may by regulations provide to take account of the termination of any plans of such State approved under titles I, X, XIV, and XVI and the establishment of the supplemental security income program under title XVI.".

Technical Improvement of Provisions Governing Disposition of HMO Savings

(m) Section 1876(a)(3)(A)(ii) of such Act is amended by striking out ", with the apportionment of savings being proportional to the losses absorbed and not yet offset".

Technical Improvement of Provisions Governing Allowable HMO Premium Charges

(n) The last sentence of section 1876(g)(2) of such Act is amended by—

(1) inserting "of its premium rate or other charges" immediately after "portion";

(2) striking out "may" and inserting "shall";

(3) striking out "(i)"; and

(4) striking out "less (ii) the actuarial value of other charges made in lieu of such deductible and coinsurance".

Applications for Assistance on Behalf of Deceased Individuals

(o) Section 1902(a)(34) of the Social Security Act (as amended by Public Law 92-603) is amended by inserting "(or application was made on his behalf in the case of a deceased individual)" immediately after "he made application".

Expansion of Intermediate Care Facility Ownership Disclosure Requirements

(p) Section 1902(a)(35)(A) of such Act is amended by inserting "or who is the owner (in whole or in part) of any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such intermediate care facility or any of the property or assets of such intermediate care facility" immediately after "intermediate care facility".

Technical Modification of Extended Medicaid Eligibility for AFDC Recipients

(q) Section 1902(e) of such Act is amended to read as follows:

"(e) Notwithstanding any other provision of this title, effective January 1, 1974, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan.".

Limitation on Payments to States for Expenditures in Relation to Disabled Individuals Eligible for Medicare

(r)(1) Section 1903(a)(1) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under title XVIII" immediately after "individuals sixty-five years of age or older".

(2) Section 1903(b)(2) of such Act is amended by inserting "and disabled individuals entitled to hospital insurance benefits under title XVIII" immediately after "individuals aged 65 or over".

Federal Payment for Cost of Inspecting Institutions Limited to Expenses Incurred During Covered Period

(s) Section 1903(a)(4) of such Act is amended by striking out "sums expended" and inserting "sums expended with respect to costs incurred" in lieu thereof.

Federal Payment for Family Planning Expenditures Not Limited to Administrative Costs

(t) Section 1903(a)(5) of such Act is amended by striking out "(as found necessary by the Secretary for the proper and efficient administration of the plan)".

Exception to Limitation on Payments to States for Expenditures in Relation to Individuals Eligible for Medicare

(u) Section 1903(b)(2) of such Act is amended by inserting", other than amounts expended under provisions of the plan of such State required by section 1902(a)(34)" immediately before the period at the end thereof.

Utilization Review by Medical Personnel Associated With an Institution

(v) Section 1903(g)(1)(C) of such Act is amended by striking out "and who are not employed by" and by inserting ", or, except in the case of hospitals, employed by the institution" immediately after "any such institution".

Authority To Prescribe Standards Under Title XIX for Active Treatment of Mental Illness

(w) Section 1905(h)(1)(B) of such Act is amended by—

(1) striking out ", involves active treatment (1)" and inserting "(1) involve active treatment" in lieu thereof,

(2) striking out "pursuant to title XVII", and

(3) striking out "(ii) which" and inserting "(ii)" in lieu thereof.

Correction of Erroneous Designations and Gross References

(x)(1) Section 1902(a)(13)(C) of such Act is amended by striking out "(14)" and inserting "(16)" in lieu thereof.

(2) Section 1902(a)(33)(A) of such Act is amended by striking out "last sentence" and inserting "penultimate sentence" in lieu thereof.

(3) Section 1902(a) of such Act is amended by—

(A) striking out the period at the end of paragraph (35) and inserting "; and" in lieu thereof; and

(B) redesignating paragraph (37) as paragraph (36).

(4) Sections 1902(a)(21), (24), and (26)(B), and the last sentence of section 1902(d), of such Act are each amended by striking out "nursing home" and "nursing homes" each time that they appear therein and inserting "nursing facility" and "nursing facilities", respectively, in lieu thereof,

(5) Section 1903(a) of such Act is amended by striking out "and section 1117" in the first parenthetical phrase.

(6) Section 1903(b) of such Act is amended by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(7) Section 1905(a)(16) of such Act is amended by striking out "under 21, as defined in subsection (e);" and inserting "under age 21, as defined in subsection (h); and" in lieu thereof.

(8) Section 1905(c) of such Act is amended by striking out "skilled nursing home" each time that it appears therein and inserting "skilled nursing facility" in lieu thereof.

(9) Section 1905 of such Act is amended by redesignating subsection (h) (which was enacted by section 299L(b) of the Social Security Amendments of 1972) as subsection (i).

(10) Section 1905(h)(2) is amended by striking out "(e)(1)" and inserting "(1)" in lieu thereof.

Deletion of Obsolete Provisions

(y)(1) Section 1903 of such Act is amended by—

(A) striking out subsection (c);

(B) striking out "(a), (b), and (c)" in subsection (d) and inserting "(a) and (b)" in lieu thereof.

(2) Section 1905(b) of such Act is amended by striking out everything after "section 1110(a)(8)" and inserting a period in lieu thereof.

(3) Section 1908 of such Act is amended by striking out the last sentence of subsection (d) and subsections (e) and (f), and redesignating subsection (g) as subsection (e).

Determination of Amount of Exclusion for Disapproved Capital Expenditures by Institutions Reimbursed on Fixed Fee or Negotiated Rate Basis

(z) The last sentence of section 1122(d)(1) of such Act is amended by inserting "or a fixed fee or negotiated rate" immediately after "per capita" each time that it appears therein.

Technical Improvement of Authority To Include Expenses Related to Capital Expenditures in Certain Cases

(z–1) Section 1122(d)(2) of such Act is amended by striking out "include" the last time that it appears therein and inserting "exclude" in lieu thereof.

Conforming Amendments to Title XI of the Social Security Act

(z–2)(1) Title XI of the Social Security Act is amended—

(A) in section 1101(a)(1), by—

(i) striking out "I,", "X,", "XIV,", and "XVI,", and

(ii) by adding at the end of such section 1101(a) the following new sentence: "In the case of Puerto Rico, the Virgin Islands, and Guam, titles I, X, and XIV, and title XVI (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term 'State' when used in such titles (but not in title XVI as in effect pursuant to such amendment after Decembr 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.",

(b) in section 1115, by—

(i) inserting (in the matter preceding subsection (a)) "VI," immediately after "title I,",

(ii) inserting (in subsection (a)) "602," immediately after "402,", and

(iii) inserting (in subsection (b)) "603," immediately after "403,", and

(C) in section 1116, by—

(i) inserting (in subsection (a)(1)) "VI," immediately after "title I,",

(ii) inserting (in subsection (a)(2)) "604," immediately after "404,",

(iii) inserting (in subsection (b)) "VI," immediately after "title I,", and

(iv) inserting (in subsection (d)) "VI," immediately after "title I,".

(2) The amendments made by this subsection shall be effective on and after January 1, 1974.

Effective Dates

(z–3)(1) The amendments made by subsections (g), (h), (j), and (l) shall be effective January 1, 1974.

(2) The amendments made by subsection (k) shall be effective with respect to admissions subject to the provisions of section 1814(a)(2) of the Social Security Act which occur after December 31, 1972.

(3) The amendments made by subsections (m) and (n) shall be effective with respect to services provided after June 30, 1973.

(4) The amendments made by subsections (o) and (u) shall be effective July 1, 1973.

MODIFICATION OF PROVISIONS ESTABLISHING SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 19. (a) Section 303(c) of the Social Security Amendments of 1972 is amended to read as follows:

"(c) Section 9 of the Act of April 19, 1950 (64 Stat. 47) is amended to read as follows:

" 'SEC. 9. Beginning with the quarter commencing July 1, 1950, the Secretary of the Treasury shall pay quarterly to each State (from sums made available for making payments to the States under section 403(a) of the Social Security Act) an amount, in addition to the amount prescribed to be paid to such State under such section, equal to 80 per centum of the total amount of contributions by the State toward expenditures during the preceding quarter by the State, under the State plan approved under the Social Security Act for aid to dependent children to Navajo and Hopi Indians residing within the boundaries of the State on reservations or on allotted or trust lands, with respect to whom payments are made to the State by the United States under section 403(a) of the Social Security Act, not counting so much of such expenditure to any individual for any month as exceeds the limitations prescribed in such sections.' "

(b) Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act as in effect prior to January 1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title I, X, XIV, or XVI, of such Act, and (2) administrative activities carried out after December 31, 1973, which such Secretary determines are necessary to bring to a close activities carried out under such State plans.

PROVISIONS RELATING TO UNEMPLOYMENT COMPENSATION

SEC. 20. Section 203(2) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new sentence: "Effective with respect to compensation for weeks of unemployment beginning before April 1, 1974, and beginning after December 31, 1973 (or, if later, the date established pursuant to State law), the State may by law provide that the determination of whether there has been a State 'on' or 'off' indicator beginning or ending any extended benefit period shall be made under this subsection as if paragraph (1) did not contain subparagraph (A) thereof."

The PRESIDING OFFICER. Is this the amendment on which there is to be 1 hour of debate?

Mr. LONG. Yes.

Mr. CURTIS. Mr. President, what the distinguished chairman has proposed now, to be taken care of immediately, would carry a first-year cost of $2.4 billion—in other words, $4 billion below what the Senate has previously passed.

These other matters are still pending in conference. The House conferees have expressed not only a willingness but also a commitment that they will continue in conference.

Among other things, what Senator LONG has now proposed would be a benefit increase of 7 percent that would be effective for March, April, and May, with an additional 4 percent effective in June.

It would eliminate the necessity for a retroactive pay period, a point the administration is very much concerned about and would be opposed to.

There are many provisions that do not appeal to me. The cost of this increase is met by increasing the base. It has always been my opinion we should vote on both the tax rate and the base, but my views were in the minority in the committee and on the floor of the Senate.

There is a shift of funds from medicare to cash benefits. As the chairman said, what is attempted to be done will increase the SSI payments for an individual from $130 as provided to $140, and for a couple from $210 to $219. This is the new program that supplants our existing matching program for the aged, blind, and disabled. It will become effective in January.

It also takes care of the matter of food stamps for some of these recipients. We were faced with the problem with respect to the eligibility of these people getting food stamps where the eligibility would be promptly eliminated. There is a 6-month period here in which those who draw the benefits would be taken care of and not have to bear certain hardships.

The social security regulations are a matter of great controversy. I will have something to say about that in just a moment.

There are some problems of eligibility for medicaid, which is a program for the needy and near-needy. It is a Federal matching program. These other changes that create questions about eligibility are matters of urgent attention.

There is also the 90-day extension for Federal matching for unemployment benefits, including a provision offered by the Senator from New York (Mr. JAVITS).

There are other matters that are retained in conference. There is the matter of the increase in earning limits from $2,400 to $3,000 and reducing the age from 72 to 70; and benefits for aged widows at 65.

Drugs under medicare are not decided this time, and that is a plan our chairman worked so diligently on.

Legislation relating to child support and liberalized social security for the blind, medicare for disabled spouses, and other matters were not taken care of at this time, but are carried over as the unfinished business.

The social service program is a program that started out with a small amount of money and grew very rapidly. It looked as if it was going to cost $5 or $6 billion. Congress proceeded to do something about that and it has been cut $1.9 billion and then to $2.5 billion.

There is a difference of opinion on how the matter is to be handled between Members and the administration. Regulations went into effect in November. In the meantime, the Committee on Finance adopted the idea of revenue sharing and allowing the States more or less to write their own regulations about social services.

This is not favored by the administration. What is proposed today is to take the old regulations before things got to a controversy and extend it a year. In all fairness the administration does not like it. They would like to see the regulations that were inaugurated last November continued.

There is strong feeling in the Committee on Finance for delegating the whole problem to the States. The way it has been left is that Congress can arrive at a solution of this problem which would be enacted into law in a subsequent bill prior to the end of the year. There is nothing to prevent that from being done.

Even though there are some of these matters that are not to my individual liking, I expect to support the amendment to the House bill as offered by my distinguished chairman and I am ready to vote.

Mr. MONDALE. Mr. President, I rise in support of H.R. 11333, as amended by the distinguished Senator from Louisiana (Mr LONG).

This bill represents what I believe to be a fair and reasonable solution to the impasse which has developed over H.R. 3153, the welfare technical amendments.

That bill contained technical amendmends proposed by the House to the comprehensive social security law which was enacted last fall. In addition, it contained a number of Senate amendments proposing substantive changes in the Social Security Act. The House of Representatives apparently feels strongly that differences between the House and the Senate on this bill cannot be resolved before the midterm recess.

The pending bill represents our effort to resolve the most urgent issues now, so that the remaining differences can be resolved in conference next year.

It would provide a 7-percent social security increase, effective next March to be followed by another 4 percent in June.

It would increase the basic payment under the supplemental security income program for the aged, blind, and disabled, from $130 a month to $140 a month for a single person and from $195 a month to $210 a month for a couple next January, increasing to $146 for single persons and $219 for couples next July.

It would preserve food stamp and medicaid eligibility for the aged, blind, and disabled.

It would extend for 90 days the special program of unemployment compensation for areas with high unemployment.

And it would suspend for an additional year, until December 31, 1974, the regressive regulations proposed by the Department of Health, Education, and Welfare for the social services program which provides essential services—such as child day care, education, and training services, and help for the elderly and disabled to stay in their own homes—to help people get off the welfare rolls and stay off.

Last June, the Congress enacted legislation suspending HEW's proposed regulations until last November 1. We urged the Department to revise its regulations in order to prevent massive cutbacks in the program with corresponding hardship for countless families and elderly persons, and with accompanying increases in Federal welfare costs. Although changes were made, the regulations placed into effect on November 1 would cut the heart from the services program.

At the request of the Nation's Governors, the mayors, and county officials, and a broad range of interested groups, the Senate adopted legislation to return to the States basic responsibility for administering the services program. This legislation will remain in conference by the Senate and House and I am hopeful that it will be adopted next year.

In the meantime, the 1-year extension of the previous regulations contained in the pending bill will permit States and local communities to proceed with operation and expansion of the services program.

Mr. President, as a member of the conference committee, I wish to express my thanks to the distinguished Senator from Louisiana (Mr. LONG), the chairman of the Senate conferees, for his very impressive leadership in producing this compromise.

Mr. DOLE. Mr. President, the Social Security amendments measure before us today is vitally important to millions of Americans.

As a member of the Senate Finance Committee which held hearings and deliberated over this measure with much concern, I feel that it represents a positive effort to meet a number of very pressing needs while maintaining the utmost regard for the program's sound fiscal basis.

ELEVEN PERCENT BENEFIT INCREASE

Perhaps the most prominent feature, and one which is so important to millions of elderly Americans is the two-step, 11 percent, increase in Social Security benefits. In this era of rapid rises in the cost of living, those who live on fixed incomes are hurt earliest and hardest. Social Security beneficiaries and other pensioners have been very severely hit by higher food prices, higher rents, and increased costs for everything else they must buy. So it is entirely appropriate that we act now to ease the accumulated shortfall in benefits and provide for an additional increase to avoid continued hardship and burdens.

The bill provides for a total 11-percent increase in monthly benefits to be effective, first, with a 7-percent increase in March of 1974. Then in June another 4-percent increase will take effect. On the

average this will mean that a single person's benefits would rise from a present $167 to $178 in March and to $186 in June. The average benefits for a couple who now receive $277 will go to $296 in March and to $310 in June. And while these increases of $11 or $22 or whatever, may not seem so significant to some, for those who must make do on their Social Security benefits alone or in major part, these are quite important.

AUTOMATIC COST-OF-LIVING INCREASE

An additional automatic cost-of-living increase, to be effective in June 1975, is written into the bill. This step is consistent with the policy of assuring that social security benefits do not lag behind the cost factors in the economy, and I believe it is most appropriate.

WAGE BASE INCREASE

Of course, with any benefits there is always the question of paying for them. And with the social security program there are two choices. First, the size of the payroll tax can be increased. But this approach hits low- and moderate-income workers very hard. They are already paying a far greater portion of their income in these taxes than someone with a much higher income so increasing the tax rate is a very regressive approach to improving social security benefits.

The other alternative is to increase the wage base upon which the tax is paid, and the committee has adopted this approach. Thus in January the wage base will go from $12,600 to $13,200 and will mean that those in the lower income brackets will not have their burden for supporting the social security program increased at this time.

SUPPLEMENTAL SECURITY INCOME PROGRAM

Under the provisions of this bill 1974 will bring good news in the form of new income benefits for as many as 45,000 aged, blind, and disabled Kansans who act quickly to apply for the supplemental security income program.

Estimates are that at least this many more Kansas citizens may be eligible for the federally administered SSI program in addition to the some 15,000 who have been eligible under the comparable State programs of old-age assistance, aid to the blind, and aid to the permanently and totally disabled. Naturally the program will also include those persons who had previously been aided by the State programs.

MINIMUM INCOME ASSURED

The new program, which will take effect in January, insures people 65 or older, or blind, or disabled, an income of at least $130 a month for individuals and $195 for couples. In January 1974 these payments will rise to $140 for an individual and $210 for couples. Furthermore, in July these payments will rise to $146 for single persons and $219 for couples. Depending on an individual's other income, not all checks will be exactly that amount, but everyone now receiving public assistance will get at least as much as they are receiving now.

OUTREACH PROGRAM

People who receive State assistance checks in December will automatically receive Federal checks beginning in January and there is a statewide volunteer effort to reach individuals newly eligible for SSI payments and help them enroll at the nearest Social Security Office. Kansas received a $95,000 grant from the Administration on Aging to aid this identification and outreach program called SSI alert.

Groups in Kansas which have been aiding the SSI alert are the National Association of Retired Federal Employees, the American Association of Retired Persons, the National Council on Aging, the National Caucus on the Black Aged, and Social Security Administration offices. Kansans who think they may be eligible for assistance under the new SSI program have been directed to contact their local Social Security Office. Representatives from any of these voluntary groups are also able to advise them on application procedures.

The bill also includes a number of other important provisions concerning aged, blind, and disabled persons' eligibility for food stamps and medicare; certain regulations dealing with unemployment benefits; and a temporary suspension of a set of HEW regulations dealing with Federal social services grants.

So, Mr. President, I would repeat that this bill is very important to millions of Americans who depend very directly on their social security benefits. It is important that these benefits be sufficient to meet their needs and enable them to live in dignity and with a measure of self-respect.

Mr. HUDDLESTON. Mr. President, I am voting for the social security proposal before us today as I have voted for social security increases on three earlier occasions this year.

I do so knowing of the extreme difficulties faced by many of our retired elderly, seeking to make ends meet at a time when shortages place upward pressures on prices and inflation continues unabated. I do so in the belief that we have a responsibility to those who have themselves contributed to the system and who depend upon it.

I also do so, however, with concern over the growing tax burden which is resulting from the social security system. The social security tax has risen dramatically in recent years. In 1960, it was 3 percent on the first $4,800 of earnings or a total of $144 a year. By 1970, it had risen to 4.2 percent on the first $7,800 or $327 a year. Only 3 years later, in the current year, the maximum has risen to over $500 and projections indicate additional escalation.

The impact of the increases is, furthermore, compounded by several factors. First, only a portion of income is taxable. Presently, the taxable income is $10,800. All income above is excluded. This concept of a cutoff was adopted because benefits are limited, and there must be some relation between contributions and benefits. Still, that does mean that those in the lower and middle-income levels bear the major burden for supporting the social security system.

Second, it is these same people who bear the brunt of the burden for a variety of other taxes—especially State and Federal income taxes and the local property tax. While various jurisdictions impose these taxes, it is important to remember that they all fall on the individual and that it is he who pays.

I am disappointed that Congress has not addressed itself to comprehensive tax reform during this session—I hope it will do so early next year. At the same time, I hope the Congress will study the overall impact of the tax structure on the individual and devise a Federal tax system based on an understanding of the larger tax picture, whether it be from the local, State, or Federal level.

When taxes are deducted or the check written, it makes little difference to the individual which level of government has imposed the tax. The fact is that the American citizen is paying up. And, there is no way that the total impact of taxes on the earnings and living styles of the American family can be assessed unless the entire taxing structure is examined.

Thus, the responsibility for tax reform is not simply the responsibility to raise or lower taxes one by one. It is, instead, the responsibility to review all taxes as they relate to the individual and to develop a system that is fair and equitable and based on an appreciation of the many aspects of the taxing structure in this Nation.

Mr. ROTH. Mr. President, when the Social Security Amendments of 1973 (H.R. 3153) were being considered in the Senate Finance Committee, I supported the social security benefit increases; as well as benefit increases for the aged, blind, and disabled persons under the supplemental security income program. This legislation will help provide some relief from this situation.

I held the conviction then, and I do so now, that passage of the Social Security Amendments which should bring about the long overdue financial relief for these senior citizens should be a legislative matter of priority; and should be passed by this distinguished body with maximum dispatch. I am gratified that my esteemed colleagues in conference have seen fit to come up with a bill that will help realize the urgent and immediate objective of passing on to the aged and the poor the benefit increases they deserve and need. It is important that we act on this legislation before adjourning.

NEW SOCIAL SECURITY INCREASES FOR THE ELDERLY POOR

Mr. CRANSTON. Mr. President, my Los Angeles office received a call recently from a 70-year-old veterans pensioner who had been arrested for stealing change from a newsstand. He said he did it, because he had to eat.

In Miami, the police department reports a sharp increase in supermarket shoplifting by elderly people who are apparently forced to steal in order to stay alive.

This kind of indignity—elderly people reduced to stealing— is outrageous. Close to 5 million of the over 20 million Americans aged 65 or over have incomes below the poverty line. A new wave of still higher inflation that I believe is coming will further swell the ranks of the elderly poor.

If we are going to expect older Americans of modest means to survive this period of runaway inflation we have to do something to help them. The cutting edge of Congress response has been social security benefits. Enough financial support must be provided through social security to allow the elderly to support themselves in relative comfort and dignity.

Today's Congress passed a 7-percent-across-the-board increase in social security benefits effective in March. It will appear in the April checks. Another 4 percent increase was approved effective in June.

Both increases, which I heartily supported, will go a long way toward improving conditions for older Americans.

Mr. LONG. Mr. President, if there is no request for time on the amendment, I yield back my time.

Mr. CURTIS. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

CONCURRENT RESOLUTION (S. CON. RES. 62) PROVIDING FOR SINE DIE ADJOURNMENT OF THE 1ST SESSION OF THE 93D CONGRESS

Mr. MANSFIELD. Mr. President, I send to the desk a concurrent resolution and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution (S. Con. Res. 62) was considered and agreed to, as follows:

S. CON. RES. 62

Resolved by the Senate (the House of Representatives concurring), That when the two Houses adjourn on Friday, December 21, 1973, they shall stand adjourned sine die or until 12:00 noon on the second day after their respective Members are notified to reassemble in accordance with Section 2 of this resolution, whichever event first occurs.

SEC. 2. The Speaker of the House of Representatives and the President pro tempore of the Senate shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it, or whenever the majority leader of the Senate and the majority leader of the House, acting jointly or the minority leader of the Senate and the minority leader of the House, acting jointly, file a written request with the Secretary of the Senate and the Clerk of the House that the Congress reassemble for the consideration of legislation.

Mr. MANSFIELD. Mr. President, I have no reason to be optimistic, but I wanted to bring up the resolution anyway.

I ask unanimous consent that the concurrent resolution remain at the desk until I ask that it be removed.

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

INCREASE IN SOCIAL SECURITY BENEFITS

The Senate continued with the consideration of the bill (H.R. 11333) to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. TALMADGE), the Senator from New Mexico (Mr. MONTOYA), the Senator from Utah (Mr. MOSS), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Idaho (Mr. CHURCH), and the Senator from Texas (Mr. BENTSEN) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), the Senator from Texas (Mr. TOWER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

If present and voting, the Senator from Hawaii (Mr. FONG), the Senator from Oregon (Mr. HATFIELD), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER) the Senator from Ohio (Mr. TAFT), and the Senator from Connecticut (Mr. WEICKER) would each vote "yea."

The result was announced—yeas 66, nays 0, as follows:

[No. 613 Leg.]

YEAS—64

Abourezk	Hart	Muskie
Allen	Hartke	Nelson
Bartlett	Haskell	Nunn
Bayh	Hathaway	Packwood
Beall	Hruska	Pell
Bible	Huddleston	Proxmire
Biden	Hughes	Randolph
Burdick	Humphrey	Ribicoff
Byrd, Harry F., Jr.	Inouye	Roth
Byrd, Robert C.	Jackson	Schweiker
Case	Javits	Scott, Hugh
Chiles	Johnston	Scott, William L.
Clark	Kennedy	Sparkman
Cook	Long	Stennis
Cranston	Magnuson	Stevens
Curtis	Mansfield	Stevenson
Dole	Mathias	Symington
Domenici	McClellan	Thurmond
Fannin	McGee	Tunney
Fulbright	McGovern	Williams
Griffin	McIntyre	Young
Hansen	Metcalf	
	Mondale	

NAYS—0

NOT VOTING—34

Aiken	Eagleton	Moss
Baker	Eastland	Pastore
Bellmon	Ervin	Pearson
Bennett	Fong	Percy
Bentsen	Goldwater	Saxbe
Brock	Gravel	Stafford
Brooke	Gurney	Taft
Buckley	Hatfield	Talmadge
Cannon	Helms	Tower
Church	Hollings	Weicker
Cotton	McClure	
Dominick	Montoya	

So H.R. 11333 was amended and passed.

Mr. LONG. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

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

Mr. McCLELLAN. I am happy to yield to the Senator from Nebraska. Does he want the floor in his own right?

Mr. CURTIS. I intend to speak for some 3 or 4 minutes.

Mr. McCLELLAN. I yield.

THE WATERGATE WITCH HUNT

Mr. CURTIS. Mr. President, I am compelled to rise to call attention to what is going on with reference to Watergate investigation-related court actions, and the like.

I hold in my hand an article published in the Washington Post of December 19, which begins:

A White House tape turned over to a Ralph Nader lawyer last week was played "for fun" at a cocktail party Monday night, ABC News has reported.

I ask unanimous consent that the article entitled "Nader Lawyer Plays Nixon Tape 'For Fun'" be printed in the RECORD.

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

NADER LAWYER PLAYS NIXON TAPE "FOR FUN"

A White House tape turned over to a Ralph Nader lawyer last week was played "for fun" at a cocktail party Monday night, ABC News has reported.

The tape was one of those the Ralph Nader organization had sought in its legal battles with the Nixon administration charging favoritism to the dairy industry in exchange for campaign contributions.

After fighting subpoenas for the tapes for months, the White House released this copy last week to attorney William Dobrovir, a Nader lawyer.

ABC News said Tuesday that Dobrovir played the recording at a cocktail party, but refused to play it for ABC Tuesday.

Nixon Press Secretary Ronald L. Ziegler said Dobrovir's action sounded unethical or illegal. A spokesman for special prosecutor Leon Jaworski expressed outrage, ABC said.

"That's just what we were worried about. Watch what the White House does with this now," the spokesman said. Dobrovir could not be reached immediately for comment.

Mr. CURTIS. Mr. President, I hold in my hand what purports to be the script of the David Schoumacher report, ABC News, of December 18, 1973. It begins:

One of the White House tapes turned up last night as the featured entertainment at a Georgetown social gathering. The tape originally was subpoenaed by the Ralph Nader organization in a lawsuit charging the Nixon Administration reversed its policy towards the dairy industry in exchange for campaign contributions.

I ask unanimous consent that that script be printed in the RECORD.

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

[ABC News, Dec. 18, 1973]

DAVID SCHOUMACHER REPORT

One of the White House tapes turned up last night as the featured entertainment at a Georgetown social gathering. The tape originally was subpoenaed by the Ralph Nader organization in a lawsuit charging the Nixon Administration reversed its policy towards the dairy industry in exchange for campaign contributions.

The White House resisted the subpoena for months, and last week released the tape to a Nader attorney, William Dobrovir. It was Dobrovir who played the recording at a cocktail party here last night.

Those who heard it say the President and dairy industry representatives make several interesting but not necessarily compromising statements. Dobrovir refused to play the tape for ABC News today—said he played it at the party because "that was for fun".

A Justice Department attorney said there was no doubt in his mind the recording was part of a law suit still in progress and should have been held in confidence. The White House has resisted subpoenas partly because of a fear the tapes would be misused.

Presidential News Secretary Ronald Ziegler was dumbfounded at Dobrovir's action, saying it sounded unethical or illegal—maybe both.

A spokesman for Special Prosecutor Leon Jaworski was equally outraged, and pointed out that the Prosecutors had once prevented Dobrovir from joining their case. Said the Jaworski aide, "That's just what we were worried about. Watch what the White House does with this now."

Mr. CURTIS. Mr. President, it is the business of the U.S. Senate what its committees do. The Senate has a right to expect committees to act with decorum and with responsibility. I am very disappointed at what the so-called Ervin committee has done up to date.

They have allowed the committee to be used for spreading hearsay and unproven charges over nationwide television.

Second, they have failed to follow the rules of evidence, and have done so before a nationwide television audience.

Third, they have permitted innuendoes and speculations to be disseminated as facts before a nationwide television audience.

Fourth, they have misused the immunity statute which was enacted as a weapon to be used against organized crime.

The committee appears, by its actions, to say to irresponsible witnesses, "We will let you go scot-free if you will involve somebody else, particularly the President of the United States."

Fifth, the committee, by its announced decisions, appears to put a higher priority on television shows than on cooperating with the courts of the land.

Sixth, they have totally disregarded the fact that the purpose of a congressional investigating committee is to get information for legislating.

The Senate passed the election reform bill. The Ervin committee made no recommendations for it. They did not ask that it be withheld until they could file a report. Long discussions were had here upon the public financing of elections, and there was no report from the Ervin committee, though they were authorized to issue interim reports. They have totally disregarded that situation.

The other day, they brought in a resolution for more money. They totally disregarded the usual proceeding of having it go to the Rules Committee. No report was filed, which is customary when you ask for more money. I asked the distinguished chairman if he would supply a report for the information of the Senate. He replied, "No, I won't."

Now what do we have? A misuse of process. It is my information that a subpena has been served on the White House which could ask for as many as 500 tapes. There is not a court in the land that would not recall such a subpena and require those seeking it to be more specific and spell out with certainty what they wanted. It is a witch hunt.

Mr. President, it is time that that committee follow ordinary procedure. Let me tell you something that the Joint Committee on Internal Revenue Taxation has found out. One John Dean, who appears to be the sweetheart of some members of the Ervin committee, appeared and made a lot of accusations and innuendoes as to fact, and so on. He said that a list of enemies, some 213 or 216, was prepared, and as you read that testimony, it would cause most of us to believe that that list was sent to the Internal Revenue Service.

It never was. What John Dean did not tell that committee was that there was another list of about 480 enemies of the Nixon administration that was taken to the Internal Revenue Service for the purpose of having those people harassed or investigated. And who took it there? John Dean.

That information was withheld from the Ervin committee. What kind of investigation is that? What kind of interrogation of witnesses is that sort of thing, to allow something like that to happen?

The facts show that this was presented to the Commissioner of Internal Revenue. He would not have anything to do with it, harassing taxpayers because they opposed the administration. John Dean was persistent, and so the Commissioner took it up with the Secretary of the Treasury.

The Secretary of the Treasury said, "We will have nothing to do with this." The list was sealed up and placed in a safe, but when the staff of the Joint Committee on Internal Revenue Taxation went to ask about it, there it was. The seal on the list was broken in the presence of Dr. Laurence Woodworth, our chief of staff.

I point this out—and I shall yield the floor in just a moment—to show the procedure of this committee, which has so much time for television business and so little for following established rules of evidence and procedure.

I raise a question about the propriety of a subpoena asking for 500 copies of conversations.

They should specify what they want, pinpoint it, and I am sure the White House then could respond.

But, Mr. President, this has every earmark of a witch hunt. Their past record shows how they conduct their business.

I hope that the Senate will take heed of it because, after all, that committee is the agent of the Senate.

There is just one responsibility, and that is to bring in information for the purpose of legislating. So far, their record is zero on that.

Mr. President, I yield the floor.

SUPPLEMENTAL APPROPRIATIONS, 1974 CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on H.R. 11576, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The second assistant legisaltive clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11576) making supplemental appropriations for the fiscal year ending June 30, 1974, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of December 20, 1973.)

Mr. McCLELLAN. Mr. President, the conference report on the Supplemental Appropriation Bill for Fiscal Year 1974, which is now before the Senate, contains recommendations of new budget—obligational—authority amounting to $1,703,125,386.

The Senate conferees took into the conference a bill which recommended appropriation of new budget—obligational—authority of $1,888,425,386. The House bill contained appropriations of new budget—obligational—authority of $1,433,035,718, while the budget estimates totaled $1,534,183,886. Thus, the pending measure is $168,941,500 over the budget estimates; $270,489,668 over the sum recommended by the House, which includes estimates totaling $105,393,668 which were not considered by the House; and $185,300,000 below the amount contained in the Senate bill.

Mr. President, during the Senate debate on this bill, $79,500,000 was added by floor amendments; specifically, $72 million was put in on the floor of the Senate for the exploration, development, and production of Naval petroleum reserves. In addition, $7,500,000 was added on the floor for carrying out Section 421 of the Older Americans Act of 1965. Unfortunately, the House conferees were adamant with respect to this latter floor amendment, and the Senate was compelled to recede.

Mr. President, because the first conference report on this bill was not adopted by the House, it was necessary to go into conference a second time. In the first conference it was agreed that $7,500,000 of the $72 million provided in the Senate bill for exploration, development, and production of Naval petroleum reserves be retained solely for the exploration of Naval Petroleum Reserve No. 4. The House conferees felt that before development and production of these reserves were undertaken, there should be opportunity for a comprehensive study by the legislative committees, as well as the appropriation committees, of both bodies.

When the first conference report was considered by the House, a move to recommit the conference report on the bill to the committee on conference was made with instructions to the managers on the part of the House to agree to the Senate amendment No. 5, which amendment provided $72 million to cover not only exploration but also development and production of Naval Petroleum Reserves Nos. 1 and 4.

This motion carried by a vote of 216 to 180, and needless to say, returned the bill to the committee on conference. In the second conference the conferees agreed to the Senate amendment, and, thus, the full amount of $72 million added on the floor of the Senate for the exploration, development, and production of the petroleum reserves is in the pending measure.

The amendment in the Senate bill which provided $9,360,000 for the necessary expenses of the Federal Energy Office, which was established by Executive Order No. 11748 dated December 4, 1973, has been retained in the bill.

In addition to these funds and the $72 million which I previously mentioned the conference bill contains additional sums to alleviate the present energy crisis.

In this connection, Mr. President, for the Office of Coal Research $29,100,000 has been made available, and for the Office of Oil and Gas of the Department of the Interior $33,545,000 is recommended in the conference bill. Also provided is $5,800,000 for energy-related research for the Civilian Reactor Research and Development and Reactor Safety Research Programs of the Atomic Energy Commission.

Mr. President, almost one-half of the sum recommended in the pending measure is provided for items that were deferred in regular appropriations bills for fiscal year 1974. For these items a total of $803,860,000 is recommended, and include $725,668,000 for Social and Rehabilitation Services of the Department of Health, Education and Welfare; $47,857,000 to fund the Operating Expenses of the Domestic Programs of ACTION; and $30,335,000 for the Traffic and Highway Safety Programs of the Department of Transportation.

For the Economic Development Administration the House bill contained recommendations appropriating $6,500,000 for Planning, Technical Assistance and Research. During Senate consideration, $75 million was added to the House sum by the committee, of which $7,400,000 was provided for the Planning, Technical Assistance and Research Programs of the Economic Development Administration; $38,900,000 for Development Facilities; and $28,700,000 for Industrial Development Loans and Guarantees. The committee on conference retained the $6,500,000 provided by the House for the Planning, Technical Assistance and Research and also allowed $30 million of the $75 million added by providing $15 million for the Industrial Development Loans and Guarantees and $15 million for Development Facilities.

For International Organizations and Conferences, Mr. President, the pending measure provides $17,337,000 to pay the United States' share for the estimated 1-year costs of the United Nations Middle East Peace-Keeping Force. This amount represents 29 percent of the first assessment of $60 million which was levied by the U.N. General Assembly, and for Public Buildings Services Operating Expenses the sum of $90,400,000 is contained in the conference bill, which compares with the $82,400,000 recommended by the House and the $91 million that was provided in the Senate bill.

Most of the administrative provisions which were added by the Senate have been retained in the conference measure. Specifically, these include the amendment which was added to chapter 5 concerning the impoundment of appropriated funds and, also in this chapter, the provision which provided for continuing appropriations for the Manpower Administration.

The committee on conference also retained in the bill the Senate amendment which would require the Veterans Administration to have independent audits made of any claims resulting from overruns on construction contracts and also require that for claims in excess of $1 million funds would have to be provided in an appropriation account rather than through the reprograming process heretofore employed by the Director of the Veterans' Administration.

Mr. President, I believe I have covered the major items in the pending measure, and it would be my pleasure to answer any questions that Senators may have. If I am unable to do so, the chairmen of the various subcommittees who have items in this bill are also available to answer any questions that might be posed concerning their portion of the bill.

Mr. YOUNG. Mr. President, as our distinguished chairman has indicated, the conference report recommends appropriations of $1,703,125,386 in the Supplemental Appropriations Bill. This is $168,941,500 over the budget estimates, $270,089,668 over the amount passed by the House and is $185,300,000 under the Senate bill.

This conference report provides the necessary funding to meet the critical energy situation. In the further conference on this bill the full $72,000,000 was added by the Senate for the exploration, development, and production at Naval Petroleum Reserves Number 1 and 4. We were also able to obtain in the first Conference an additional $12.4 million over the amount approved by the House for the Office of Oil and Gas, and the full $9,360,000 for the new Federal Energy Administration. This will mount the great effort required to preserve our dwindling supplies of fuel while accelerating the exploration and development of new energy sources.

In the HEW chapter, the Senate conferee stayed firm and obtained a fair portion of our increases that will help carry out the recently enacted Vocational Rehabilitation Act and title IX of the Older Americans Act. We didn't get all that was in the Senate bill for Vocational Rehabilitation but we did lay a solid foundation for increasing the amount for the basic State grants if the States demonstrate the capacity to match a higher level of Federal funds.

On behalf of the minority, I endorse the conference report to the Senate and urge its adoption.

APPROPRIATION FOR DEVELOPMENT OF NAVAL PETROLEUM RESERVES SEEN LEADING TO "FURTHER ENRICHMENT OF MAJOR OIL COMPANIES"

Mr. STEVENSON. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

Mr. STEVENSON. The distinguished chairman of the Committee on Appropriations has brought this measure to the floor of the Senate with his usual skill, and I commend him for that.

I call attention to one provision in the Supplemental Appropriations Bill.

The bill as reported by the conference committee appropriates $72 million to the Secretary of the Navy for the exploration and development of Naval Petroleum Re-

serves. I do not quarrel with the proposition that in these times of energy shortage, the reserves should be explored and developed for the benefit of the public which, after all, owns them.

But because of apparent violations of the law, it will soon be discovered that substantial amounts of oil in Naval Petroleum Reserve No. 1 at Elk Hills, Calif., have already been drained away by Standard Oil Co. of California—SoCal.

SoCal is currently being sued by the Navy for draining oil from the reserve.

The company is under investigation by the State of California for rigged bidding. What is more, it submitted a curiously identical bid with Shell Oil Co. on a 1970 contract for purchase of the Navy's production from the Elk Hills reserve.

Under a contract with the Navy, SoCal is now operator of the entire reserve. It may sell the oil from Elk Hills to itself as owner of the only sizable pipeline connected to the reserve.

The proposed $72 million appropriation includes $4.3 million for further exploration of Elk Hills. While this sum is appropriated to the Secretary of the Navy, it will be paid, in large part, to SoCal as operator of the Elk Hills unit. The $72 million also includes $13 million for the Navy's share of the operating costs for production of the Elk Hills reserve. That money too will go to SoCal as operator of the unit. In addition, the $72 million includes $47.5 million for further development of the Elk Hills reserve. That sum will also go to SoCal as operator of the unit it has already raided.

Under Senate Joint Resolution 176, approved hurriedly by the Senate, the proceeds from SoCal's sale of the oil to itself, or any other oil company, will be placed in a fund and made available for further exploration in Naval Petroleum Reserves.

William P. Clements, Jr., the Deputy Secretary of Defense and owner of stock valued at some $100 million in SEDCO, Inc., a major drilling company, has recommended a policy that may result in the opening of the reserves to development by the oil companies that have already left their legacy at Teapot Dome and Elk Hills. The principal reserve is, of course, Petroleum Reserve No. 4, in Alaska. It is believed to contain potential reserves of 33 to 100 billion barrels of oil. So the proceeds from the sale of the remaining oil at Elk Hills may be used for the further enrichment of the major oil companies, including Mr. Clements' drilling company.

The $72 million also includes $7.5 million for exploration of Petroleum Reserve No. 4. That sum, too, may enrich the oil companies.

I agree that the reserves should be explored. The Government should know what resources it owns before it leases them to the oil companies. I also agree that when production from Naval reserves exceeds military requirements it should be made available for civilian use. But I reject the suggestion that to accomplish these purposes the oil companies must be permitted to exploit the public's resources. History is repeating itself, except that the stakes could make the raid on Teapot Dome a petty misdemeanor by comparison. Already the boundaries of Petroleum Reserve No. 4 are being moved in mysterious ways which enrich the oil companies instead of the public. The Bureau of Land Management has moved the borders of this reserve inward, and then granted leases to major oil companies on land the Navy still considers within the reserve.

Safeguards can be written into the laws which would protect the public interest. The laws could be enforced, this time to protect the public interest. The Navy could acquire its own personnel and material with which to develop the oil and gas resources in its custody. The Congress could create a Federal oil and gas corporation, as I have proposed, to develop the enormous oil and gas resources in the public domain, this time for the benefit of the public. The Congress could require that pipelines from naval petroleum reserves be regulated as common carriers to assure fair and competitive bidding for the Navy's oil.

I will vote for this conference report on the supplemental appropriations bill with misgivings and because in the parliamentary situation I have no alternative. But the warning is sounded—and let it be a warning to the oil companies already fattening on the energy crisis, as well as to the Congress and the executive branch. One Teapot Dome scandal is one too many.

Mr. McCLELLAN. Mr. President, in my statement a few moments ago, I covered the history of this particular item that was a floor amendment when the bill was considered by the Senate. The House conferees would not agree to the full amendment. They did agree to a part—$7.5 million, to be used solely for exploration of naval petroleum reserve, No. 4. But when the conference report reached the House, the House rejected the report, with instructions to its conferees to accept the Senate amendment, and that has been done.

Mr. President, I have been requested by the distinguished Senator from Washington (Mr. MAGNUSON) to have printed in the RECORD a statement in connection with this bill. I ask unanimous consent that his statement and the accompanying material be printed in the RECORD.

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

STATEMENT BY MR. MAGNUSON

The total appropriations allowed in conference for Chapter V of the FY 1974 Supplemental appropriations bill for the Departments of Labor, and Health, Education, and Welfare is $825,025,000. This sum is $75,574,000 above the budget estimates, is $101,590,000 under the total sum recommended by the Senate and $61,668,000 above the amount allowed by the House.

I submit for the RECORD, at the conclusion of my remarks, a table showing all the comparative figures.

As usual, this was a difficult conference. We were pitted against both the House conferees and the Administration as they pressed for figures that were much lower than ours. I always thought that conferences on appropriations bills are to be resolved by representatives of the House and the Senate. But there was no doubt, as we debated with the House on these issues that the shadow of the Administration was in that room. The Administration's HEW budget office had provided the House conferees with documents—containing mostly false and misleading information—instructing the House conferees to oppose every single penny that the Senate had included for increased health care and improved educational opportunities for our citizens.

Not one penny for maternal and infant care—not one penny for intensive care units for new born premature infants—not one penny for services for crippled children—not a penny more for emergency medical services—not a penny more for aid to medical schools or to elementary and secondary schools—not a penny more for Gerontology research centers. All the Senate figures are wrong—all the Administration's figures are right. This was the message that the Administration sent to the House conferees on Chapter V of this bill—the chapter that provides for human needs.

In the face of such opposiiton, all the Senate conferees worked hard to provide as much of the Senate increases for Chapter 5 of this bill as were possible—and in the areas of greatest need.

We are just as disappointed as some members that we could not do better in providing a larger sum in some areas. I am particularly disappointed that we were not able to provide more money for maternal and infant care, for part time job opportunities for older Americans, and for increased funding for rehabilitation programs for the disabled. And yet I think we can point with some pride to the improvements in the bill resulting from Senate action—more jobs, more health care, more rehabilitation services to the disabled—that demonstrate to the American people that the members of this body are concerned over the welfare of their countrymen.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

In recognition of the ineffectiveness of existing manpower training programs to reach older Americans—those 55 and older—the Congress enacted Title IX of the Older Americans Act which authorized funding for part time community service employment for older Americans. The conference agreement, while falling short of the Senate proposal, will *get the program started* and will provide jobs for 4,500 older Americans in useful public service work at hospitals, day care centers and centers serving the elderly.

EMERGENCY MEDICAL SERVICES

The Senate recognized the need to improve the Nation's emergency medical services systems, which are in such deplorable condition in this country that two-thirds of the 1,000 people who die every day of heart attacks do so before they reach a hospital. The Senate included $27 million for this purpose. In conference, the Senate was able to sustain the full amount for emergency medical services.

VOCATION REHABILITATION PROGRAMS

The Senate had included $752 million to implement the provisions of the Vocational Rehabilitation Act which is the principal mechanism by which the Federal Government participates in the rehabilitation of our disabled citizens. In conference, the Senate was able to sustain $725,668,000 for these rehabilitation programs. This includes $630 million for basic state grants.

CONCLUSION

In closing, let me state that I thought that Chapter V of the Senate bill was a good one. The conference report before you today provides for an amount that should prove very helpful. The amounts provided for some items are not entirely to my satisfaction; however, in the main, there will be adequate funds to meet necessary supplemental expenses for the Department of Labor and HEW and the ACTION agency for fiscal year 1974, and we will be coming back next year to see if more can be done.

CHAPTER V—DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE, AND RELATED AGENCIES

Department or activity	Budget estimate	House allowance	Senate allowance	Conference agreement	Conference agreement compared with— Budget estimate	House allowance	Senate allowance
DEPARTMENT OF LABOR							
Manpower Administration: Community service employment for older Americans			$40,000,000	$10,000,000	+$10,000,000	+$10,000,000	−$30,000,000
Employment Standards Administration: Salaries and expenses	$1,960,000				−1,960,000		
	[1] (840,000)	[1] ($2,800,000)	[1] (2,800,000)	[1] (2,800,000)	(+1,960,000)	( )	( )
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services and Mental Health Administration							
Health services planning and development		9,500,000	29,500,000	29,500,000	+29,500,000	+20,000,000	
Philadelphia Children's Hospital	( )	(9,500,000)	(9,500,000)	(9,500,000)	(+9,500,000)	( )	( )
Emergency medical systems	( )	( )	[2] (20,000,000)	[2] (20,000,000)	(+20,000,000)	(+20,000,000)	( )
Health services delivery: Maternal and child health—State grants			30,105,000	7,000,000	+7,000,000	+7,000,000	−23,105,000
National Institutes of Health							
Health manpower: Financial distress grants			5,000,000	5,000,000	+5,000,000	+5,000,000	
Office of Education							
Emergency school assistance			12,447,000				−12,447,000
Metropolitan projects	( )	( )	(6,223,500)	( )	( )	( )	(−6,223,500)
Special programs and projects	( )	( )	(6,223,500)	( )	( )	( )	(−6,223,500)
Social and Rehabilitation Service							
Social and rehabilitation services	700,096,000	707,538,000	752,668,000	725,668,000	+25,572,000	+18,130,000	−27,000,000
Basis State grants	(615,870,000)	(615,870,000)	(650,000,000)	(630,000,000)	(+14,130,000)	(+14,130,000)	(−20,000,000)
Service projects	(43,000,000)	(43,000,000)	(49,000,000)	(47,000,000)	(+4,000,000)	(+4,000,000)	(−2,000,000)
Grants for the developmentally disabled	(12,500,000)	(12,500,000)	(12,500,000)	(12,500,000)	( )	( )	( )
Research	(20,596,000)	(20,596,000)	(25,596,000)	(20,596,000)	( )	( )	(−5,000,000)
Training	(8,,30,000)	(15,572,000)	(15,572,000)	(15,572,000)	(+7,442,000)	( )	( )
Multidisciplinary centers of gerontology			7,500,000				−7,500,000
RELATED AGENCIES							
Action (domestic programs)	49,395,000	46,319,000	49,395,000	47,857,000	−1,538,000	+1,538,000	−1,538,000
Total, chapter V	751,451,000	763,357,000	926,615,000	825,025,000	+75,574,000	+61,668,000	101,590,000

[1] By transfer from "Special benefits".
[2] In addition, bill language was included to authorize transfers of $10,000,000 in funds previously appropriated for energency medical systems.

Mr. HRUSKA. Mr. President, I would take this opportunity to applaud the leadership of the distinguished chairman, the Senator from Arkansas (Mr. McCLELLAN) and the Senator from North Dakota (Mr. YOUNG), ranking minority leader, in producing the important document which is now before this body.

I can assure my colleagues that Senator McCLELLAN, Senator YOUNG, and the other Senate conferees worked diligently with our counterparts from the House on this matter.

I am generally satisfied with most of the provisions contained in the conference report and recommend its prompt approval by my colleagues.

There is one item to which I would like to draw attention.

During the consideration of the supplemental appropriation requests, it was brought to my attention that the Dement of Health, Education, and Welfare intends to substantially reduce and curtail funds for its program of rehabilitation of public offenders. Under the Rehabilitation Act of 1973, these programs were placed within the Rehabilitation Services Administration.

In the past, programs of this nature have served to meet critical needs of those persons in correctional institutions who suffer serious physical and behavioral disabilities. In fiscal year 1973, at a cost of nearly $42 million, over 23,000 offenders were assisted under the public offenders rehabilitation program.

On page 29 of the Appropriations Committee report (No. 93-614), the committee made the following statement:

The Committee expects that HEW would not discontinue any rehabilitation services provided in 1973, including services to individuals in correctional institutions.

The reference to 1973 in this statement is to the Rehabilitation Act of 1973.

It was my understanding that the intent of the committee was that these rehabilitation programs should not only be continued, but that they should be continued at funding levels at least equal to the level of funding for fiscal year 1973.

As one who has a continuing interest in furthering the social rehabilitation of offenders, I am pleased to note that these important programs, funded by the Rehabilitation Service Administration, will retain their vitality through the coming year.

Mr. MUSKIE. Mr. President, when the supplemental appropriations bill was on the floor of the Senate December 12, I proposed an amendment to delete language that was designed to restrict the authority of the Environmental Protection Agency to administer programs that would regulate parking facilities. This amendment was accepted by the manager of that portion of the supplemental appropriations bill, Mr. McGEE. However, in conference, the House provision prevailed and the conference report includes the restrictive language contained in the House bill.

I oppose the language in this conference report for many reasons, but I do not intend to delay the passage of the appropriations measure. This is primarily because the language has no real effect, since there are no funds in this supplemental appropriations bill for EPA's programs that regulate parking facilities. The only EPA funds in this supplemental appropriation are for research and development.

I do want to make a very clear record about the inappropriateness of the attempt to legislate on an appropriations bill. This is an issue that falls within the jurisdiction of the appropriate legislative committees of Congress. I made this point at the time my amendment was accepted during Senate action on this legislation. I promised at that time that this matter would be considered carefully by the Senate Public Works Committee.

As a demonstration of that pledge, I can now report that the emergency energy bill, which will be on the floor later today, contains language that would satisfy the objectives of those who originally proposed the amendment to the supplemental. The emergency energy legislation carries a provision that suspends the authority of EPA to impose a parking surcharge upon States and localities. Many other parking management activities have been delayed to allow further congressional consideration of these measures. So I believe we have clearly demonstrated that the appropriate legislative committees can and will carry out their responsibilities in this area. I hope that in the future, appropriations bills will not become the vehicle for further attempts to deal with questions that properly belong to the legislative committees of Congress.

In further clarification of this matter, I would point out that my judgment of the effect of the language in this supplemental on EPA's activities is shared by the Members of the House of Representatives who have responsibility for legislation governing EPA's activities. When Mr. LEGGETT offered his amendment on the House floor on November 30, Mr. ROGERS and Mr. WHITTEN both agreed that the amendment would have no real effect on EPA's legal authority or its reg-

ulatory program funds. Let me quote from that floor debate:

Mr. LEGGETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Leggett: Page 2, immediately after line 9, insert the following new paragraph:

No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax limit, or otherwise regulate parking facilities . . .

Mr. ROGERS. This section does not provide for money to apply to the parking problem. It is simply for research on different matters. So I do not think it is germane; but nevertheless, I understand the gentleman's concern. Our committee, too, is concerned and I believe it should be appropriately raised in the legislative committee.

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Mr. WHITTEN. Mr. Chairman, I cannot speak for the committee, but I have no objection to this amendment. I agree that the funds in this particular section are not for this purpose. In this particular section, the funds are for the purpose of additional research to obtain answers that the EPA should have had long before they issued lots of orders which they have issued.

Mr. Chairman, I might also say that in the report and in the action of the Congress, we directed that hereafter the agency, EPA, give us the benefit of findings by themselves before taking such type action. While the money here is not for that purpose, I think it is well that this amendment be adopted here so as to serve notice to EPA to get back to its primary purpose, and if present law gives them any claimed authority such as they are attempting to enforce in the way of parking tax as that the Administration be smart enough not to attempt such action.

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Mr. ROGERS. Mr. Chairman, I would agree that there is no reason not to adopt this amendment since the funds do not go to it anyhow and it is an expression of our concern, but I do not think it has any legislative effect.

The distinguished Senator from Wyoming and I have discussed this matter extensively. I appreciate his cooperation and his assurance that the language in this supplemental will not have any binding impact. I look forward to working with him in the future on matters dealing with the funding of EPA's programs and know that he carries a strong commitment to the goals these programs seek to reach.

Mr. McGEE. Mr. President, in response to the senior Senator from Maine (Mr. MUSKIE), I assure him that we have made no attempt to legislate on this supplemental appropriation bill, as I understand the situation. The language, in my opinion, is simply a limitation on the use of the specific EPA funds contained in this particular bill. As such, this limitation is well within the rules and procedures of the Appropriations Committee and the Senate.

There can be no question, however, but that the language in question will have but a limited effect. It is clear from the language itself that it limits only the funds provided to the EPA in this bill. It makes no attempt to reach back and limit funds provided in prior appropriations bills, nor does it attempt to restrict or limit any funds which might be provided in future appropriations bills.

The EPA funds in this bill were requested and provided for specific and definite research areas. I am certain that EPA fully intends to utilize them for the purposes for which they were requested, justified and appropriated. EPA has advised that this limitation will not cause them any problems for the balance of this fiscal year or during the life of this supplemental.

If there are any attempts to include this limitation, or any others on appropriations bills in the future, those matters would have to be considered on the merits and after a consideration of all appropriate issues at that time.

Mr. President, the Senator from Maine (Mr. MUSKIE) and I discussed this on the floor of the Senate a few days ago. At that time, he made certain assurances on his own behalf and on behalf of the legislative committee. As he pointed out in his remarks, he made good on that commitment and, I might add, in great haste. As I recall, he promised to have this matter considered by the proper legislative committee early next year. He expedited that timetable considerably and, in fact, the action he promised is contained in the emergency energy bill which will be considered later today. I commend the gentleman from Maine for this, and I want to assure him that I look forward to working with him on these enviromental and related matters in the future.

Mr. JAVITS. Mr. President, when the supplemental appropriations bill was considered in the Senate on December 12, I directed a number of questions to the chairman of the Committee on Appropriations, Mr. MCCLELLAN, regarding the Neighborhood Youth Corps summer job program, which as Members know has been of longstanding interest to me.

At that time, I was very pleased to confirm with the chairman that the continuing appropriation for manpower training contained therein, at the rate of $1.5 billion for this fiscal year, includes the funds necessary to maintain the summer job program at at least the 1973 level of $237 million.

I am gratified today to note that, with certain technical changes not material to the summer job program, the House accepted the $1.5 billion figure; that is reflected in item 48 of the conference report at page 14.

This is particularly important because only yesterday the Senate passed and sent to the President the conference report on S. 1559, the "Comprehensive Employment and Training Act of 1973," which act contains a "such sums" authorization for fiscal year 1974 and a special authority to which I contributed to authorize the Secretary to provide financial assistance for the summer job program, essentially through the Neighborhood Youth Corps program, for this summer from appropriations available under the act.

Accordingly when S. 1559 becomes law, as I expect it will shortly, the Secretary will have both the necessary authorization and appropriations which may be run through the new authority—as he may under the continuing appropriation itself—to carry out his responsibility with respect to the maintenance of the Neighborhood Youth Corps summer job program for this summer.

I ask unanimous consent that an excerpt from page 41043 of the RECORD of December 12, 1973, together with excerpts from the conference report on S. 1559, including statements from the joint explanatory statement of the committee of conference, be printed in the RECORD at this time.

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

[From the CONGRESSIONAL RECORD, p. 41043, Dec. 12, 1973]

Mr. JAVITS. Mr. President, I have two matters which I wish to raise in connection with this appropriation. I shall raise them in reverse order as I need a document which is not yet before me on the latter question.

The first question relates to page 34 of the committee's report on this supplemental appropriation bill with the heading "Continuing Appropriations."

It deals primarily with the manpower programs. I wish to report to the Senate, as the committee here is very critical and quite correctly, I think, of the delay in respect of a definitive bill on manpower training which becomes uniquely important as we are now really concerned about the employment and economic dislocation attributable to the fuel crisis.

I wish to report to the Senate that the House and Senate conferees are meeting, and they may agree as early as today, if not today, certainly tomorrow.

The anticipation of the final action of the conferees, as I see it, is that it would include action on the overall provision for manpower training of at least $1.5 billion at the appropriation rate of fiscal year 1973. It would include also some form of public service employment, which is especially important now. The money for public employment may be on a such sums basis except for the first year when it is likely there will be a specific sum.

I wish to note that the amount now provided may well not accommodate the programs as they will be agreed to, in which case an effort will be made at the earliest opportunity to get the necessary appropriation for that purpose.

Mr. President, there is one other point which is very important, and that is that the $1.5 billion which is continued contains $237 million for the Neighborhood Youth Corps, summer program. That is the same rate for the Neighborhood Youth Corps activity which was carried on in 1973.

In 1974, it is expected, according to the way I read the conference, that their disposition will be to carry on the same size program. And as I say, even the $1.5 billion, which is the rate of current expenditure involving that particular provision, is the minimum amount required for that purpose, and even that, probably is inadequate in terms of rising costs and the situation that may result from the energy crisis.

I would like to tell the Appropriations Committee, if I may ask the indulgence of the chairman, the senior Senator from Arkansas, that we tried to act upon that measure a lot earlier than we have in the past.

Mr. MCCLELLAN. Mr. President, I did not hear the Senator from New York.

Mr. JAVITS. Mr. President, we are now acting on the basic Neighborhood Youth Corps summer program a lot earlier than we have in the last few years.

Mr. MCCLELLAN. Mr. President, we cannot act until the House acts. I hope the Senator understands that.

Mr. JAVITS. Mr. President, I understand. But the funds necessary to maintain the

summer program at at least the 1973 level are in this bill.

Mr. McCLELLAN. That is my understanding.

Mr. JAVITS. Mr. President, I thank the Senator from Arkansas. I make the point—because this is the place in which I can make it—that heretofore the results of that program have been affected because of the resulting inefficiency which comes in when we are uncertain until the last minute whether the resources will be available.

That is a report that I feel the managers of the conference wish to have since they had called rather sharp attention to this matter.

Mr. President, I had in mind raising another matter. However, as there is another Senator on the floor with that amendment, I will desist for the moment.

Mr. President, I yield the floor.

[From pages 1-2 "Joint Explanatory Statement of the Committee of Conference" on S1559 (Senate Report 636)]

TRANSITIONAL PROVISIONS

The Senate amendment authorizes the Secretary to provide financial assistance under the terms of existing law until July 1, 1974. This authority shall not be used to postpone the designation of prime sponsors and the Secretary is required to continue to provide financial assistance to national programs of demonstrated effectiveness. The House amendment has no comparable provision. The conference compromise authorizes the Secretary to provide financial assistance under the terms of existing law repealed by this act until July 1, 1974, and makes special provisions for continuation of the summer youth job program for the summer of 1974.

The conferees are concerned with the critical unemployment problems of the Nation's youth and recognize a special Federal responsibility for alleviating youth unemployment, as has been demonstrated in the special summer programs for youth, as well as other manpower programs.

The conferees expect that the Secretary will continue to give due attention to the special problems of youth under the authority contained in section 304 of the Act.

To enable early planning for the summer youth job program for the coming summer, section 3(c) of the conference agreement contains a special transition provision authorizing the Secretary to provide jobs to economically disadvantaged youth during the period June 1, 1974, through October 1, 1974, from appropriations under the Act for fiscal year 1974, notwithstanding any other provision of the Act, in the same manner and on the same conditions as provided under previous authority.

The conferees intend that the "such sums" authorization under section 4(a), together with section 3(c) may be utilized to provide appropriations, by supplemental or otherwise, for fiscal year 1974 to maintain the basic level or meet additional needs for jobs but not recreational activities for youth during the summer of 1974.

The House and Senate reports have recommended an aggregate of $1.55 billion for manpower training programs for fiscal year 1974 (exclusive of public service employment), the amount appropriated by the Congress for those purposes for fiscal year 1973, which total (sic) included $237,443,000 was obligated for the summer youth job program.

The conferees intend that funds available under title II are not to be viewed as a substitute for funds appropriated for the summer youth job program under the provisions cited, and that the manner in which prime sponsors may utilize their title II funds will not relieve the Secretary of his special responsibility under the provisions cited above to provide for a summer youth job program of 1974.

Conference report: Section 3(c) on S. 1559:

(c) Notwithstanding any other provision of this Act other than the provisions of section 4(d)(1), the Secretary is authorized from appropriations available under this Act for fiscal year 1974 to provide financial assistance for the program described in section 304(a)(3) during the period June 1, 1974, through October 1, 1974, in the same manner and on the same conditions as provided pursuant to the Manpower Development and Training Act of 1962, as in effect prior to June 30, 1973, and title I of the Economic Opportunity Act of 1964, as in effect prior to repeal by this Act.

Conference Report: Section 4 (a)-(d)(1) on S. 1559:

SEC. 4. (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 fiscal years for carrying out the provisions of 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.

(c)(1) 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.

(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection 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.

(d)(1) Of the amounts appropriated to carry out this Act, the Secretary shall reserve and make available not less than $250,000,000 in the fiscal year ending June 30, 1974, and not less than $350,000,000 in the fiscal year ending June 30, 1975, to carry out public service employment programs under title II.

Conference Reports: Section 304(a) on S1559:

YOUTH PROGRAMS AND OTHER SPECIAL PROGRAMS

SEC. 304. (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 experience 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, including those in recreation and related programs, 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, physical improvement, 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 or area served;

(6) special services, when required, 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 prime sponsors to assist such sponsors in securing part-time or temporary employment for middle-aged and older persons; and

(7) other manpower programs conducted by community-based organizations.

(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.

Conference Report: Section 605(c) on S. 1559:

(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 programs providing jobs for economically disadvantaged youth to begin in June of such year, including the number of opportunities in public and private agencies or organizations that will be provided under section 304(a)(3) of this Act or in the case of the summer of 1974 under section 3(c), 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.

MINNESOTA PORTS OF ENTRY

Mr. HUMPHREY. Mr. President, I want to express concern about one matter in H.R. 11576, making supplemental appropriations for fiscal year 1974. I refer to an almost unnoticed provision on page 24 of the bill as originally reported to the Senate and passed on December 12, and mentioned briefly on page 18 of House Report No. 93-736, the conference report on this bill.

Specifically, in both instances the following legislative provision is added to this appropriations bill under the section on Department of the Treasury—U.S. Customs Service, following an authorization of an additional amount of funds

for Customs Service salaries and expenses:

Provided, That none of the funds made available under this or any other Act shall be obligated or expended to change the boundaries of the Pembina, North Dakota, Customs District (Region IX), without the consent of the Committee on Appropriations of the United States Senate and House of Representatives.

Quite frankly, I did not speak to this issue when this bill was originally passed by the Senate, because there was absolutely no mention of this provision in the report of the Senate Committee on Appropriations, on pages 64–65 dealing with appropriations to the U.S. Customs Service.

This matter having already been disposed of by the Senate, I am prevented from seeking its reconsideration at this time. However, I do register my strong protest over this oversight in the original committee report and my firm objection to this provision.

What is at issue here is a legislative mechanism which effectively prevents an eminently sound reorganization plan from being implemented by the Customs Service. In the Federal Register of September 12, 1973, on page 25185, the Customs Service announced a proposed rule to transfer the customs ports of entry of Baudette, Noyes, Pinecreek, Roseau, and Warroad, Minn., from the Pembina, N. Dak., Customs District—region IX—to the Duluth, Minn., Customs District—region IX.

Explaining this change as designed "to effect a better ratio of customs ports of entry to customs districts and to line the customs points of entry with congressional representation and State interests," the Customs Service gave full opportunity, over a 1-month period, for public comment on this proposal. And it is my understanding that representatives of the Customs Service went to great lengths to meet and discuss with persons involved, on questions raised about this proposal, and that substantial agreement and support had been achieved.

On October 2, 1973, I joined with Senator MONDALE and Representatives BLATNIK and BERGLAND in addressing a letter to Mr. Vernon D. Acree, Commissioner of the U.S. Customs Service, to express our full support of the transfer of jurisdiction of these five customs ports of entry to the Duluth, Minn., Customs District. In that letter we stated:

We feel that this change is in the best interest of the State of Minnesota in that it allows uniform customs and immigration service along the entire Minnesota-Canadian boundary.

Mr. President, the mail I have received from Minnesota constituents on this matter clearly indicates broad support for this transfer of jurisdiction, primarily because it will greatly expedite administrative procedures.

For all these reasons, I strongly object to the provision in this bill which requires that the Appropriations Committees of both Houses of Congress must first agree to this transfer before any funds may be expended for this purpose, and to the manner in which this legislative objective was achieved.

I am advised that Members of the Minnesota delegation in the House immediately reviewed this matter when it was brought to their attention and in response to the requirement under amendment No. 86 of this conference report that the managers on the part of the House offer a motion to recede and concur in the almost unnoticed amendment of the Senate to prohibit administrative action to change the boundaries of the Pembina, N. Dak., Customs District.

I do not intend to delay in any way the completion of action on this important supplemental appropriations measure. However, I want to indicate very clearly my expectation that the Senate Appropriations Committee will give further consideration to this matter, and my intention to pursue subsequent legislative courses to correct what I view as very unfortunate and negative effects from the adoption of the provision I have discussed.

Mr. CRANSTON. Mr. President, I want to express my admiration for the excellent work done on this conference report by the distinguished Senator from Wisconsin (Mr. PROXMIRE) as chairman of the HUD-Space-Science-Veterans' Appropriation Subcommittee. I believe that he has most skillfully and fairly brought about a reasonable resolution of the very complicated and difficult matter in connection with the Northport VA Hospital construction contract settlement. He and I discussed this matter during debate on the Supplemental Appropriations Act when it was first considered by the Senate on December 12.

Mr. President, in the course of our discussions the distinguished Senator from Wisconsin inserted into the RECORD the extensive chronology of documentation over the last month between the Congress and the Veterans' Administration and the General Accounting Office and the Veterans' Administration. Since then, the General Accounting Office responded to the December 4, 1973, letter from the Administrator of Veterans' Affairs to the GAO in response to the GAO's November 19 letter raising serious questions and requesting further information with regard to the Northport Hospital settlement agreement entered into by the Veterans' Administration and the Donovan Construction Co., Inc.

Mr. President, I ask unanimous consent that the full text of the December 13, 1973, rebuttal letter from the GAO to the Administrator be set forth in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, as I understand the conference report and the joint explanatory statement of the conference committee, the conferees have reported back in technical disagreement with respect to Amendment No. 7, which the Senator from Wisconsin and I authored last week. It is recommended by the conferees that the amendment be modified so that settlements of $1 million or less would be excluded from the new requirements. I think that this is a very reasonable amendment, so that the VA would have some latitude in making contract settlements of less substantial claims without having to comply with the requirement of our amendment that amounts paid for contract settlements must be specifically provided for in an Appropriations Act and must be a result of a full audit of the claim with respect to the reasonableness and appropriateness of all expenditures.

Mr. President, the joint explanatory statement with respect to this amendment permits the VA, prior to enactment of the supplemental to make a $6 million payment—a payment, in effect, "on account"—prior to the final determination of the settlement figure, provided that this initial payment is formally approved by the Office of Management and Budget and that a full and independent audit will eventually be performed. The final settlement will be subject to congressional approval in a specific appropriations Act, under the terms of the modified amendment.

Mr. President, I ask unanimous consent that the pertinent excerpts from the joint explanatory statement be printed in the RECORD at this point.

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

VETERANS' ADMINISTRATION

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate to insert language requiring independent audit and approval through the appropriations process of Veterans Administration contract settlements, with an amendment to exclude settlements of $1,000,000 or less. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Although this provision confirms current understandings of reprogramming authority, the conferees recognize that it could place a hardship on contractors who have recently negotiated a settlement with the Veterans Administration, but have not been paid by the agency. The conferees agree that a secured advance payment in an amount not to exceed $6,000,000 can be made in such situations prior to the effective date of this bill, provided that such payment is formally approved by the Office of Management and Budget, with the understanding that an independent audit will ultimately be performed and that final payment will be subject to Congressional approval.

It is the sense of the conferees that all claims against the Veterans Administration should be processed through the agency board of contract appeals unless there is adequate legal analysis, audit information, and claim documentation to show that settlement outside the board of contract appeals is in the best interests of the Government. This procedure should be taken into consideration when appropriations are requested to fund such claims. It is further the sense of the conferees that when funds are requested to settle such claims, the sum should include funds to pay interest on the claim settlement.

Mr. CRANSTON. Mr. President, there is one additional matter which requires clarification, I believe, in connection with this situation. I would like to ask the distinguished Senator from Wisconsin a few questions.

First, is it not correct that both you as chairman of the Senate subcommittee and Congressman BOLAND, chairman of the comparable House Appropriations

Subcommittee, have in writing expressly disapproved of the November 15, 1973, reprograming notice from the Administrator of $10.3 million to be taken from funds previously approved for this fiscal year to construct the Wadsworth VA replacement hospital?

Mr. PROXMIRE. The Senator is correct.

Mr. CRANSTON. Am I not also correct that both of these subcommittees have expressed, during consideration of the fiscal year 1974 regular appropriations act, strong disapproval of any reprograming of construction funds from pending projects, particularly because such reprograming of funds can have the effect of delaying the completion of pending projects and thereby, because of inflation, causing cost overruns on those construction projects?

Mr. PROXMIRE. The Senator is correct.

Mr. CRANSTON. Am I not also correct in understanding that the VA has not submitted any detailed documentation or justification as to why the $10.3 million which it proposed to reprogram from the Wadsworth project was no longer needed in connection with that project?

Mr. PROXMIRE. That is my understanding also.

Mr. CRANSTON. Mr. President, it seems to me that under these circumstances, in order to fully effectuate the prior disapprovals of the November 15 reprograming notice and the two subcommittees' strong policy against reprograming of construction funds from pending projects to pay for cost overruns or other matters in connection with other projects, the VA should be directed to withdraw the November 15 reprograming notice and instructed to submit a new reprograming notice to carry out the agreement reached by the conferees as described in that part of the joint explanatory statement which I have just inserted into the RECORD. Does the distinguished Senator from Wisconsin agree with me in this respect and that the new reprograming notice—presumably to pay the $6 million to the contractor—should specify that funds for that purpose should be taken from prior fiscal years' unexpended hospital and domiciliary facility construction appropriations which are not clearly identifiable with any pending construction project?

Mr. PROXMIRE. I would certainly agree with the line of reasoning expressed by the Senator from California, and I concur in the proposal he has submitted as the way in which the Veterans' Administration can comply thoroughly and effectively with the modified amendment to be included in the conference report and the directions to the VA as expressed in the joint explanatory statement.

Mr. CRANSTON. Mr. President, there is one last matter I would like to clarify. Am I correct that the conferees in making an exception to the settlement requirements in amendment No. 7 for settlements of $1 million or less did not intend in any way to sanction settlements of these lesser amounts under anything less than rigorous procedures after a full audit? Rather, as I understand it, the conferees were merely permitting such lesser settlements to be made through the reprograming route—subject, of course, to scrutiny by the appropriations subcommittees—rather than requiring a budget request and inclusion of amounts in Appropriations Acts for such settlements.

Mr. PROXMIRE. The Senator is correct on both accounts.

Mr. CRANSTON. I thank the Senator for all of his cooperation in this matter.

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., December 13, 1973.

Hon. DONALD E. JOHNSON,
Administrator of Veterans' Affairs,
Veterans' Administration

DEAR Mr. JOHNSON: This is in reply to your letter dated December 4, 1973, to the Comptroller General of the United States. That letter was in response to our letter of November 19, 1973, requesting certain information regarding the Veterans Administration (VA) contract with the joint venture of the Blackhawk Heating and Plumbing Company, Inc., and the Donovan Construction Company (the contractor) for the construction of a hospital at Northport, New York.

We do not feel that your response has adequately answered the questions that have been raised concerning the settlement of that contract. Accordingly, we request further clarification. The areas of question are covered below.

FAILURE TO AUDIT THE CLAIM PRIOR TO SETTLEMENT

You stated in your response that at the time this contract was awarded in 1967, the Federal Procurement Regulations (FPR) did not require inclusion of any clause allowing audits in fixed price contracts and that there was no such clause in this contract.

Whatever the merits of that contention may be, it is clear that FPR 1-3.809(b)(1), requiring a prior audit of any contract modification in excess of $100,000, was in effect at the time the settlement agreement was executed.

You point out that FPR 1-3.809 provides that a contract audit is to be used as a pricing aid "to the fullest extent appropriate." You conclude that this regulation contemplates that where compelling reasons exist an audit need not be used as a pricing aid.

However, this language does not qualify the compulsory language in FPR 1-3.809(b)(1), which states in part that

"(b) *Auditor's reports on contract price proposals. (1) Prior to negotiation of any contract or modification resulting from a proposal in excess of $100,000* (including initial prices, estimated costs of cost-reimbursement types, interim and final price redeterminations, escalation, target, settlement of incentive types and modifications to formally advertised contracts), where the price will be based on cost or pricing data (§ 1-3.807-3) submitted by the contractor, *the contracting officer or his authorized representative shall request an audit review by the contract audit activity.*" (Emphasis supplied).

Moreover, apart from the regulations, it is clear that the burden is on the contractor to produce substantial evidence establishing the validity and the amount of its claims under the contract, and that mere undocumented statements in claim letters are not sufficient proof of the essential facts which are disputed. See *AAA Construction Company*, IBCA No. 55, 57-2 BCA para. 1510; *C. L. Mahoney Co., Inc.*, ASBCA No. 8358, 1964 BCA para. 4297; *Conn. Structures* (1961) ASBCA Nos. 6777 and 6779, 61-1 BCA para. 3075. Inasmuch as it is our understanding that the contractor consistently has refused to provide detailed substantiation of its claims or to allow inspection of its books until a settlement agreement had been executed, we fail to see how the contractor has met this burden. Therefore, even without the FPR requirement for an audit, we do not believe that the nonexistence of an audit clause in this contract prevents the Government from requiring an audit before settling and paying this claim since the contractor, not the Government, has the burden of proving the claim's validity.

In view of the FPR requirement, and since the burden of proof was on the contractor, we do not understand the basis for any payment made to the contractor until the claim has been subjected to an appropriate audit.

THE BOARD OF CONTRACT APPEALS DISCOVERY ORDER

In our letter, we pointed out that the VA Contract Appeals Board (VACAB) had, shortly before the settlement was executed, ordered the contractor to allow inspection of his books regarding certain claims under the contract.

However, in spite of this clear ruling in the Government's favor, you contend that the matter of the Government's right to audit is a substantive matter under dispute and that it is "unclear" whether the VACAB has the power to grant to the Government discovery of the contractor's records.

In contrast, Rule 15 of the VACAB states that:

"For good cause shown, the Board may * * * order a party to produce and permit inspection and copying or photographing of designated documents relevant to the appeal * * *."

This rule, and similar rules of other boards, allow the boards to compel an audit of the contractor's financial records. See *Ingalls Shipbuilding Division, Litton Systems Inc.* ASBCA No. 17717, August 11, 1973, 73-2 BCA para. 10,205. The sanction for failure to obey a discovery order could be denial of the claim by the board.

THE DCAA AUDIT

You contend that, under the circumstances, use of the contractor's certified audit as a pricing aid and as a document from which to negotiate was considered appropriate and within the purview of FPR 1-3.809. You reach this conclusion by noting that the contractor submitted financial statements audited and certified by a public accounting firm. Under the terms of the settlement agreement the Defense Contract Audit Agency (DCAA) is to verify the contract costs shown in the contractor's statements and if these costs were not correct, the contracting officer has the authority to reduce the amount of the settlement "by such amount as he deems proper."

It is not clear to us how this arrangement will sufficiently protect the Government's interest in this matter. Under the terms of the agreement, the DCAA audit would not be completed until after $8 million has been paid the contractor. If this $8 million has been assigned to the contractor's creditors, the Government's ability to recoup the money could be jeopardized. But, more importantly, it is our understanding that the DCAA was only requested to review the accounting methods and the accuracy of the total cost that was included in the statements submitted by the contractor. DCAA was requested not to consider the reasonableness and necessity of these costs. Also FPR cost principles will not be applied. In summary, the audit seems designed merely to verify that the contractor expended the $27.3 million he claimed to have incurred. If the $27.3 million was indeed spent, then under the terms of the settlement agree-

ment the Government would have to bear the entire amount.

USE OF THE TOTAL COST METHOD

In our letter, we questioned the propriety of the use of the total cost method of settling the contractor's claim.

You stated that the cumulative, overlapping and interlocking nature of the changed work and the extra work, was such as to make it impossible to assign detailed costs to the specific changes. You further stated that in light of the contractor's experience, the fact that the changes and Government deficiencies seriously affected overall performance, time, and cost and the fact that the costs could not be assigned with accuracy to specific costs, you saw no objection to using the total cost method as a basis for the settlement, since "lack of certainty as to the amount of damages should not preclude recovery." *J. D. Hedin Construction Co.* v. *United States,* 171 Ct. Cl. 70 (1965).

The Court of Claims and the Boards of Contract Appeals have held that the total cost method should only be used as a last resort in "extreme cases and under proper safeguards." *F. H. McGraw and Company* v. *United States,* 131 Ct. Cl. 501 (1955); *Holly Corporation,* ASBCA No. 3626, 1962 BCA para. 3272. In *Jerry T. Fine,* ASBCA No. 914, 1964 BCA para. 4378, the Board stated—

"the total cost approach has been totally discredited, inasmuch as it assumes the accuracy of the original bid and the reasonableness of the costs incurred."

In *H. R. Henderson and Co.,* ASBCA No. 5146, 60–1 BCA 92662, the Board stated that this approach should be used only in extreme situations where the bid figure can be proved to be reasonable, there are no other factors which would increase costs besides the claimed charges, and there is no other way to arrive at a proper adjustment. Also, see *WRB Corporation* v. *United States* 183 Ct. Cl. 409.

You cited and quoted from the *Hedin* case to support the use of the total cost method. However, in that case the Court of Claims also stated that in all cases where the total cost method was utilized "the fact of government responsibility was clearly established; the question was how to compute reasonable damages where no other method was available." In view of the VACAB's denial of the contractor's claims in all six appeals presented to it and its dismissal with prejudice of 13 other claims filed by the contractor, we believe there are grave doubts as to the Government's liability for the total cost of the contract.

Finally, we fail to see how it can be determined that costs cannot be assigned with accuracy to specific claims in view of the contractor's lack of substantiation of its claim, lack of a legal analysis showing Government liability, and the absence of an audit of the contractor's records.

LEGAL ANALYSIS OF THE CLAIM

In response to our question of whether or not a legal analysis of the claim was performed prior to entering into the $10.3 million settlement, you state that you did "consider all legal aspects of the claims"; that the legal right of the contractor "to claim under the [contract] clauses has never been questioned * * *"; and that "the sole issue has been the amount of the equitable adjustment to which the contractor is entitled." You further say that:

"It is well accepted that questions of law are considered in disputes procedure only when they are necessary to a determination of the facts, and even then such questions of law are not considered final in subsequent judicial proceedings concerning the same matters. No such questions of law have been raised by either of the parties to the Northport disputes."

We recognize that the contractor has a "legal right" to submit claims under contract clauses inserted largely for the purpose of permitting equitable adjustments for changes, changed conditions, and suspension of work. However, the mere assertion of a claim does not establish Government liability. Government liability must be proved and that proof must consist not only of facts, but also of a legal analysis showing that those facts, in light of the law, give rise to Government liability. Further, as we have said, the burden of such proof is on the contractor.

In contrast to your assertion that "the very nature of the disputes procedure is limited to questions of fact," we must point out that procuring agencies and their boards of contract appeals constantly deal with complicated legal questions in order to decide claims before them. The fact that the board's decisions on such legal questions are not binding in subsequent judicial review is irrelevant in view of the fact that such legal questions must be resolved in order for the boards to make their decision.

Furthermore, your files on this contract indicate that members of your legal staff saw serious legal barriers to the settlement. These legal questions involved, among other things, the legal propriety of using the total cost approach to the claim; the legal basis for interest payments; the legal basis for payment of profits under the Suspension of Work clause; the legal extent to which contractor-caused concurrent delays in the project may reduce the Government's liability; the legal basis for entering into the settlement without a prior audit of the claim; and others.

On the basis of these facts, and on the basis of the complexity of this claim and the events surrounding its negotiations we believe a legal analysis of the Government's liability under this claim is essential.

JUSTICE DEPARTMENT INVESTIGATION

You state that you are not aware of any investigation by the Justice Department regarding claims filed in connection with the Northport project. However, Justice Department representatives told us that VA representatives were informed of the investigation into possible fraud against the Government by the contractor on the Northport project as early as May 7, 1971. The Northport investigation was related to the Justice Department's similar investigation of the same contractor at the VA Hospital at Hines, Illinois.

Moreover, we note that the Justice Department, by letter to your General Counsel dated December 12, 1973, has requested that payment under the settlement be held up pending a further Justice Department investigation.

CLAIM ELEMENTS OF DUBIOUS ALLOWABILITY

In our letter we listed a number of cost elements listed by the contractor as part of his total costs that appeared to us to be of dubious allowability under present cost principles. Although you state our interpretation of these elements is "not entirely clear" to you, these specific cost elements had been questioned by members of your staff.

You state in this connection that even if some errors escaped your attention, they will be revealed during the course of the DCAA audit. As we stated, the DCAA audit apparently will not follow FPR cost principles, but merely will verify the contractor's total costs. In any event, the settlement agreement makes no provision for reducing the settlement amount if costs that would be unallowable under FPR cost principles are found to be part of the contractor's total costs.

DISAGREEMENT WITHIN THE VA OVER THE SETTLEMENT

In raising the point of the considerable disagreement within the VA over the propriety of the settlement, we were not implying that disagreement on such complex questions is surprising. Rather, we raised the point to emphasize that such disagreement concerning this settlement as has occurred in your agency should have indicated the need for a careful legal analysis and audit of the claim.

PROGRESS REPORTS

The same point may be made with respect to the numerous progress reports unfavorable to the contractor that were filed by your resident engineers. These should have been a warning that extra care was required in settling this claim. At the very least, the progress reports should not, as you seem to imply they were, have been written off as "unilateral and subjective" evaluations written by resident engineers with a history of antagonism toward the contractor. These men were the Government's agents on the job, and we believe their views should not have been dismissed without further consideration.

CLAIMS DECIDED BY THE BOARD OF CONTRACT APPEALS

You state that the 19 claims under this contract that were either denied or dismissed with prejudice by the board of contract appeals were not "considered as a part of the negotiations leading up to settlement or in the settlement itself." It is not clear to us as to how these claims were excluded from consideration as a part of the negotiations, and excluded from the settlement itself.

In summary, we are not questioning at this time the validity of the contractor's claim. The entire claim could turn out to be meritorious. What we do question, however, is the apparent lack of ordinary safeguards and normal procedures utilized in the process of reaching this very substantial settlement.

Any further information you can give us concerning these points will assist us in our further review of this matter and will be appreciated.

We are forwarding copies of your December 4 response and of this letter to the Veterans' Affairs and Appropriations Committees of the Senate and the House of Representatives.

Sincerely yours,

GREGORY J. AHART, *Director.*

Mr. McCLELLAN. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendments in disagreement.

The second assistant legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 7 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert:

"VETERANS ADMINISTRATION ADMINISTRATIVE PROVISION

"SEC. 301. No funds appropriated in this or any other Appropriation Act for any fiscal year shall be used to make a settlement of any construction contract by the Veterans Administration in an amount in excess of $1,000,000 which has not been audited independently as to the reasonableness and appropriateness of expenditures and which has not been provided for specifically in an Appropriations Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: ", of which $1,500,000 shall remain available until expended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the sum proposed by said amendment, insert: "$33,545,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 22 to the aforesaid bill, and concur therein with an amendment as follows: In lieu of the matter proposed by said amendment, insert: ": *Provided,* That $10,000,000 of the funds made available in this paragraph shall be set aside as a contingency reserve and shall be available for obligation only upon the enactment into law of S. 2589, Ninety-third Congress, or similar legislation".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$9,890,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 36 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum of $7,000,000 named in said amendment, insert: "$10,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: "501".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 48 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

CONTINUING APPROPRIATIONS

"SEC. 502. For continuing through June 30, 1974, the activities of the Cabinet Committee on Opportunities for Spanish-speaking people and activities under the Manpower Development and Training Act of 1962, as amended, and title I and title IIIB of the Economic Opportunity Act of 1964, as amended, and for necessary expenses for the activities of the Manpower Administration, for which provision was made under the joint resolution of July 1, 1972, Public Law 92-334, as amended, and the Supplemental Appropriations Act, 1973, Public Law 92-607, such amounts as may be necessary but at a rate for operations not in excess of the current rate: Provided, That the current rate for operations shall be defined as that permitted by such appropriations for fiscal year 1973: Provided further, That expenditures made pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law: Provided further, That section 103 of Public Law 93-52 shall apply to this appropriation."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "which shall be available for extension of grants to existing Economic Development Districts and planning organizations, including administrative expenses, and to fund new districts which meet the requirements of 42 U.S.C. 3171, as amended".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 74 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$2,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum of $3,700,000 named in said amendment, insert: "$2,500,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed in said amendment, insert: "$30,335,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 86 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the word "Committee" in said amendment, insert: "Committees".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 94 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

"Provided, That of the amount heretofore and herein appropriated for 'Salaries and expenses,' for the current fiscal year, the limitation for personal services as authorized by title 5, United States Code, section 3109, at such per diem rates for individuals, as the President may specify, and other personal services without regard to the provisions of law regulating the employment and compensation of persons in the Government services is $3,850,000 and the limitation on travel is $100,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 104 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed in said amendment, insert:

GENERAL PROVISIONS—GENERAL SERVICES ADMINISTRATION

"SEC. 1001. No appropriated funds shall be available for the purpose of defraying any expenses (including expenses for the payment of the salary of any person) incurred in connection with the transfer of title of all (or any portion) of the Sand Point Naval Facility, Seattle, Washington, to any person or entity for aviation use unless and until (A) the Administrator of General Services has transferred to the National Oceanic and Atmospheric Administration title to that portion of such facility as has been requested by the National Oceanic and Atmospheric Administration; and (B) the City of Seattle, Washington, and the County of King in the State of Washington, and the State of Washington have each approved a plan for aviation use of a portion of such facility".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 108 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: "XII" and in said chapter, strike out "Sec. 1101", and insert: "Sec. 1201" and strike out "Sec. 1102", and insert: "Sec. 1202".

Mr. MCCLELLAN. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate Nos. 7, 18, 21, 22, 29, 36, 43, 47, 48, 70, 74, 75, 80, 86, 94, 104, and 108.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

The motion was agreed to.

Mr. MCCLELLAN. Mr. President, I ask that the rules of the Senate which provide that the conference report shall be printed as a Senate report be waived, in view of the fact that the conference report has already been printed as a House report.

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

Mr. MCCLELLAN. Mr. President, since the tabulation of the conference action has been included in the RECORD by the House when it considered this conference report, I ask unanimous consent that it be incorporated in the RECORD at this point by reference.

(See House proceedings.)

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

Mr. MCCLELLAN. Mr. President, one of the most important tasks of the Government is to provide the people of our Nation with a stable economy, a sound dollar, and a return to a balanced budget.

The American people, caught in an economic vise of soaring costs and the shrinking purchasing power of the dollar, have the right to expect Congress to make every effort possible to extricate the Nation from this fiscal distress.

The American people have every right to expect the Government to move forcefully and effectively to put an end to habitual deficit spending and the pyramiding of the national debt.

I am gratified to report that during the current session of Congress the Committee on Appropriations, of which I am chairman, has made some progress toward reaching these goals.

On February 6, 1973, I proposed that the Senate Appropriations Committee, acting through its 13 subcommittee chairmen, set tentative appropriations ceilings to be observed during their consideration of the various fiscal 1974 appropriations bills.

On April 17, 1973, I reported that following a review of the respective portions of the Federal budget, the subcommittee chairmen projected cuts in spending that would have:

Reduced new obligational authority from the budget request of $176.652 billion to $174.253 billion—a decrease of $2.399 billion.

Reduced actual budget outlays from the budget request of $178.8 billion to

$177.2 billion—a decrease of approximately $1.6 billion.

Mr. President, I am happy to report the Congress has exceeded these goals. After extensive hearings and judicious examination and consideration of the President's spending proposals as amended, we cut an additional $864 million beyond the $2.399 billion we had originally proposed—for a total reduction of $3,262,696,451.

Building on this foundation, we have:

Reduced new obligational authority to $173,515,852,804—a reduction of 2 percent.

Reduced actual budget outlays to $176,642,000,000—a decrease of $2,202,000,000—or 1.2 percent.

Eleven of 17 appropriation requests for new obligational authority were reduced by $5,730,214,251.

The reductions made by Congress in the President's budget request were:

Defense, $3,535,793,000;

District of Columbia, $15,281,000;

Foreign operations, $1,212,483,000;

Legislative, $71,961,026;

Military construction, $286,039,000;

Public Works, AEC, $8,066,000;

State, Justice, Commerce, the judiciary, and related agencies, $56,889,000;

Transportation, $112,286,000;

Treasury, U.S. Postal Service, General Government, $140,156,000;

Special resolution, gold devaluation, $47,000,000; and,

Second supplemental for fiscal 1973, $244,260,225.

Four bills and two supplemental appropriations bills were increased over and above budgetary requests for a total of $2,467,517,800.

Labor; Health, Education, and Welfare, $1,376,843,000;

Agriculture, environmental, and consumer protection, $408,116,400;

HUD, space, science, veterans, $439,047,000;

Interior, $72,769,900; and,

Supplementals, $171,741,500.

I realize that these reductions are not quite as substantial as we had hoped to make, but they are a step in the right direction. These reductions are irrefutable proof of the serious concern of Congress over the fiscal condition of the country in these troublesome times. These reductions are proof that the Congress is evidencing some disposition toward restoring fiscal responsibility in the operations of the Federal Government. These reductions also indicate that the Appropriations Committee has the capacity to set spending ceilings early in a new session of Congress and to hold appropriations within those limitations.

It must be kept in mind that the Appropriations Committee had jurisdiction and control over only about $176,778,549,255—as of December 21, 1973—or about 60 percent of the total budget submitted by the President for fiscal 1974. The remaining $151,820,000,000 or about 40 percent of budget authority requested by the administration, required no current action by the Congress—no appropriation this year—as this amount is comprised of permanent appropriations and trust fund authorizations.

During the first session of the 93d Congress, the Committee on Appropriations considered a total of 18 measures—15 bills relating to funds for fiscal 1974 and 3 relating to fiscal 1973.

Mr. President, I am submitting for insertion in the RECORD a tabulation (table 5) which shows for all the appropriation bills for this session the amount of the budget requests and the amounts approved by the House of Representatives, a comparison of the requests with the amounts approved, the amounts considered by the Senate, the amounts approved by the Senate, a comparison of the requests with the amounts approved, and the amounts approved in conference, together with a comparison of the final conference amounts with the final budget estimates.

This tabulation covers the bills for fiscal 1974 and also the supplemental bills for fiscal 1973 considered in this session. It also shows that the Congress, in considering the budget estimates submitted by the President for fiscal 1974, has made a net reduction in the amount of $3,020,236,226, whereas, the reductions made in the fiscal 1973 bills considered in the first session of the 93d Congress amounted to $242,460,225.

The grand total budget estimates considered by the Senate during the first session amounted to $176,778,549,255. The Congress provided in the appropriations bills a total of $173,515,852,804 which means that a total reduction of $3,262,696,451 was effected in these budget estimates over which the Congress has control.

The largest single reduction was $3,535,793,000 which was cut from the Department of Defense bill. There was an additional $286,039,000 reduction in the military construction appropriation bill for fiscal 1974. This makes a total decrease of $3,821,832,000 in Department of Defense and military functions appropriations below the budget estimates for fiscal year 1974.

At the same time, the Congress approved a $32,926,796,000 Labor-HEW appropriation—primarily for human resource programs—which was $1,376,843,000 above the budget request. This is irrefutable evidence that, contrary to the misconceptions entertained by many, the defense budget has not deprived human resource programs of needed funding.

The Congress, however, added to this bill a provision to give the President authority to control spending by permitting him to make reductions in spending which could total as much as $400,000,000. Should the President choose to exercise this option, the increase over the budget would be reduced by him to $977,973,000.

HIGHLIGHTS OF THE APPROPRIATIONS COMMITTEE 'S ACTIVITIES

DEFENSE AND INTELLIGENCE OPERATIONS SUBCOMMITTEES

The Defense Subcommittee and the Intelligence Operations Subcommittee held a total of 53 sessions involving over 114 hours of meetings, hearings, and briefings on defense, intelligence, and related matters between January 11 and December 3, 1973. On the defense bill alone, 37 sessions were held, comprising over 80 hours of hearings between March 26 and December 3, 1973. The 5,291 pages of testimony taken from 262 witnesses fill five volumes. All Members of the Senate were invited on two separate occasions to present their recommendations on this bill to the subcommittee. Twenty-three Members responded either in person or by submitting statements. The Defense Subcommittee not only met the $3 billion reduction target it had set on the defense appropriation, but it reported a bill that was a net reduction of $3,511,746,000 below the budget request.

LABOR; HEALTH, EDUCATION AND WELFARE SUBCOMMITTEE

The Labor-HEW Subcommittee produced a bill which contains a number of major realinements of budget priorities. For example, although the President's budget would have drastically reduced some high priority programs, the committee was able to retain these programs and still produce a total appropriations bill that was below the committee's original estimates of April 17. Preliminary review of the President's budget request for the Department of Health, Education, and Welfare showed some underfunding of existing programs. The subcommittee set a tentative ceiling of $2.166 billion above the budget request. But, the final HEW appropriation, through a realinement of priorities, was revised by reducing the average $789 million, making the final appropriation only $1.377 billion above the budget request instead of the $2.166 billion above which it had established as a ceiling.

AGRICULTURE, ENVIRONMENTAL AND CONSUMER PROTECTION SUBCOMMITTEE

The appropriation for the Department of Agriculture, environmental, and consumer agencies under the jurisdiction of the subcommittee was $9,927,667,000. This is approximately $2.8 billion less than that appropriated for fiscal year 1973, but $408,116,400 in execess of the budget estimates for fiscal year 1974. While there are several offsetting increases and decreases, the principal net items of increase amounted to $300,000,000 for the food stamp program and $72,000,000 for the school milk program. The bill also contains $263,000,000 in excess of the budget requests for various environmental programs, including reinstatement of the rural environmental assistance program, as well as additions to the soil conservation programs and various programs of the Environmental Protection Agency.

PUBLIC WORKS—AEC SUBCOMMITTEE

The Public Works—AEC appropriations as reported to the Senate was $15,433,000 in new obligational authority over the budget request and ceiling goal. While the increase in the budget request

involved numerous items, the major change can be attributed to the need more than had been requested for flood control appropriations—Mississippi River and its tributaries. After the budget submission, one of the most severe and disastrous floods in this century occurred in the Mississippi River Basin. The enacted appropriations bill is $8,066,000 below the budget authority request, and an increase of $20,000,000 in budget outlays.

HUD, SPACE, SCIENCE, VETERANS SUBCOMMITTEE

The Subcommittee on HUD, Space, Science, Veterans considered budget estimates of $18,617,453,000 for fiscal year 1974. The bill that ultimately came out of the Congress included new budget obligational authority of $19,056,500,000, which was $439,047,000 above the budget estimate. The committee increased the budget estimates by $637,500,000, adding $150 million for the Model Cities programs; $462,500,000 for the urban renewal programs; and, $25 million for the open space land programs, all administered by the Department of Housing and Urban Development. Partially offsetting these increases, reductions were made in the estimates of the National Science Foundation totaling $13 million; the National Aeronautics and Space Administration amounting to $13.3 million; and, in the Department of Housing and Urban Development, programs aggregating $115 million.

MILITARY CONSTRUCTION SUBCOMMITTEE

The Subcommittee on Military Construction considered a fiscal 1974 budget estimate of $2,944,900,000. It set a ceiling $151 million below this request. The final military construction appropriations, as approved by the Congress, was $2,658,861,000—or $286,039,000 under the budget estimate and almost double the reduction originally proposed by the subcommittee in establishing its ceiling. Uncertainties resulting from spiraling inflation, the effects of dollar devaluation abroad, and major realinements in Army, Navy, and Air Force bases now underway are reflected in these reductions.

LEGISLATIVE SUBCOMMITTEE

The Legislative Branch Subcommittee considered budget estimates totaling $677,150,959, of which $605,189,993 was finally appropriated, a reduction of $71,961,026 in the budget estimates. The final appropriation is $60 million less than the ceiling established by the subcommittee. The subcommittee provided initial funds to launch the Office of Technology Assessment so that the Congress will have the capability to evaluate the ever-increasing impact of technology on legislative issues.

INTERIOR SUBCOMMITTEE

The President submitted a $2,370,367,300 budget request for Interior and related agencies. The subcommittee set a ceiling at the same level. As finally approved by the Congress, the appropriation totaled $2,443,137,200, or $72,769,900 above the original budget request. The proposed budget request presented the subcommittee with serious conflicts in priorities. Important programs in forest resources and recreation were severely curtailed in the budget estimates, and proposed increases for energy research, development, and management were considered grossly inadequate in view of the energy crisis. As a result of the subcommittee's recommendations, an additional appropriation of nearly $50 million was included for energy programs.

STATE, JUSTICE, COMMERCE, THE JUDICIARY AND RELATED AGENCIES SUBCOMMITTEE

The State, Justice, Commerce, the Judiciary and Related Agencies Subcommittee received a budget request of $4,522,901,000 and said it would endeavor to set a ceiling at that level. The final appropriations approved by the Congress for these agencies was $4,466,012,000 or $56,889,000 below the original request. Funding was provided for increased protection of American personnel and installations overseas from acts of terrorism, and for a new Drug Enforcement Administration, among other items.

TREASURY, U.S. POSTAL SERVICE, GENERAL GOVERNMENT SUBCOMMITTEE

The Subcommittee on Treasury, U.S. Postal Service, General Government received a budget request of $5,373,345,000 and said it would attempt to hold the appropriation at that level. The bill approved by the Congress was $5,233,189,000, or $140,156,000 below the original estimate. This was $604,277,000 under the appropriation for fiscal 1973. The subcommittee held extensive hearings on the taxpayer assistance program of the Internal Revenue Service and the IRS adopted certain committee recommendations that will better serve the American taxpayer.

TRANSPORTATION SUBCOMMITTEE

The Subcommittee on Transportation received a budget request of $3,010,732,006, including $90,360,000 in advance 1975 appropriations, and advised that it would try to hold the line at this amount. The bill approved by the Congress was $2,898,446,006—or a reduction of $112,286,000 below the President's request.

DISTRICT OF COLUMBIA SUBCOMMITTEE

The Subcommittee on District of Columbia received a budget request of $432,998,000 and also reported that it expected to hold appropriations at that level. The bill finally approved by Congress was $417,717,000 or $15,281,000 less than the sum originally sought. By directing certain economies in the District Government, the subcommittee provided an increase in appropriations over the House within the framework of a balanced budget.

CONCLUSION

Mr. President, I would also like to report that in the processing of the several appropriation bills this year, the Appropriations Committee and its subcommittees as a whole, held 288 days of hearings and heard 4,623 witnesses. Testimony taken and exhibits received filled 44,742 pages.

So, Mr. President, in summary, we have provided reasonable funding for the operation of the Federal Government consistent with the economic realities facing the Nation. We also believe the appropriations we have made are adequate for our defense and national security.

We are hoping that the results we achieved this year will be at least a first step in a long and arduous struggle to restore fiscal responsibility to the operations of the Federal Government. To prevent the current fiscal crisis from deepening and to avoid the damaging and inescapable consequences of such an emergency, it is incumbent upon Congress—upon every Member—to exercise restraint in both the enactment of new laws requiring heavy spending obligations and in making appropriations far in excess of our revenues.

The Committee on Appropriations and its Subcommittee on Defense, of which I am also chairman, have accepted this challenge—and we will do our best to meet it.

I ask unanimous consent to have printed in the RECORD a number of tabulations showing the accomplishments of the Committee on Appropriations in reducing expenditures.

Table 1 summarizes the overall net impact of the Appropriations Committee's actions upon the President's total budget requests for new obligational authority—NOA. Table 1 embodies the numerous changes in the President's requests to the Congress from the time of his initial budget request of January 1973, until December 20, 1973. Table 1 also includes the two supplemental requests for fiscal year 1973 which were acted upon by the Appropriations Committee during this session of the Congress.

Table 2 summarizes the effectiveness of the system of subcommittee ceilings which the Appropriations Committee initiated for the first time this year. Table 2 confirms that these ceilings were an effective part of the committee's successful effort to further control spending. Table 2 illustrates that the committee not only was able to meet its goal of a $2.399 billion reduction in new obligational authority, but was able to surpass that by an additional $863 million.

These reductions are summarized in more direct and abbreviated fashion by the attached table 3.

Table 4 summarizes the committee's reductions in the President's proposed fiscal 1974 expenditures or outlay. This table uses the cumulative total of Presidential budget requests for each of the 13 appropriations bills—including reestimates and requests not acted upon because of the absence of authorizing legislation.

Table 5 is a comparative table showing all budget estimates, amounts approved by the House, by the Senate, and by the Committees on Conference.

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

COMMITTEE ON APPROPRIATIONS, U.S. SENATE—RECAPITULATION OF NEW BUDGETARY AUTHORITY FEDERAL FUNDS FOR FISCAL YEAR 1974—DEC. 2, 1973

[In millions of dollars

	Total NOA estimates in President's budget: as amended as of Dec. 20, 1973 (1)	NOA otal expected as the result of legislative action as of Dec. 20, 1973 (2)	Total NOA changes made by Congress in President's budget: as of Dec. 20, 1973 (col. 2 minus col. 1) (3)
A. Budget authority in appropriation bills—			
Agriculture, Environmental and Consumer Protection	9,520	9,928	+408
Defense	77,251	73,715	−3,536
District of Columbia	433	418	−15
Foreign Operations	6,993	5,780	−1,213
HUD, Space, Science, Veterans	18,617	19,056	+439
Interior	2,370	2,443	+73
Labor, Health, Education, and Welfare	31,550	32,927	+1,377
Legislative	677	605	−72
Military Construction	2,945	2,659	−286
Public Works, AEC	4,757	4,749	−8
State, Justice, Commerce, the Judiciary	4,523	4,466	−57
Transportation	3,010	2,898	−112
Treasury, U.S. Postal Service, General Government	5,373	5,233	−1
Supplementals (delayed fiscal year 1973 and for fiscal year 1974)	6,508	6,435	−73
Special Resolution, Gold Devaluation	2,250	2,203	−47
Total appropriations bills through appropriation process (A)	176,777	173,515	−3,262

TABLE 2.—COMMITTEE ON APPROPRIATIONS, U.S. SENATE—RECAPITULATION OF CHANGES IN BUDGET AUTHORITY, FISCAL YEAR 1974, COMPARED TO CEILINGS SET BY SENATE APPROPRIATIONS SUBCOMMITTEES—DEC. 2, 1973

[In millions of dollars]

	Total fiscal year 1974 NOA in Presidential budget request: as amended by Executive actions (up to Dec. 20, 1973) (1)	Change in 1974 budget NOA recommended by subcommittee chairman as tentative ceilings (2)	Total 1974 NOA contained in latest action of Congress as of Dec. 20, 1973 (3)	Results of latest Congressional action on Appropriations Committee 1974 NOA ceilings (col. 1 plus col. 2 minus col. 3) (4)	NOA changes made by Congress in President's budget: as of Dec. 20, 1973 (5)
Agriculture, Environmental, and Consumer Protection	9,250	+801	9,928	−393	+408
Defense	77,251	−3,000	73,715	−536	−3,536
District of Columbia	433	+0	418	−15	−15
Foreign Operations	6,993	−1,203	5,780	−10	−1,213
HUD, Space, Science, Veterans	18,617	−1,000	19,056	+1,439	+439
Interior	2,370	+0	2,443	+73	+73
Labor-HEW	31,550	+2,166	32,927	−789	+1,377
Legislative	677	−12	605	−60	−72
Military Construction	2,945	−151	2,659	−135	−286
Public works-AEC	4,757	+0	4,749	−8	−8
State, Justice, Commerce, plus the Judiciary	4,523	+0	4,466	−57	−57
Transportation	3,010	+0	2,898	−112	−112
Treasury, U.S. Postal Service, General Government	5,373	+0	5,233	−140	−140
Supplementals (delayed fiscal year 1973 + fiscal 1974)	6,508	+0	6,435	−73	−73
Special Resolution, Gold Devaluation	2,260	+0	2,203	−47	−47
Grand total	176,777	−2,399	173,515	−863	−3,262

TABLE 3.—COMMITTEE ON APPROPRIATIONS, U.S. SENATE—RECAPITULATION OF COMMITTEE ACTION ON REQUESTS FOR NEW BUDGET AUTHORITY (NOA)—IN TERMS OF VOLUNTARY COMMITTEE CEILINGS AND LATEST COMMITTEE ACTION—DEC. 21, 1973

[In millions of dollars]

	Budget changes resulting from NOA ceilings set by Appropriations Committee on Apr. 16, 1973 (1)	Results of latest congressional action on committee's NOA ceilings: (reduction or increase in ceilings made by latest appropriation bill) (2)
A. New budget authority in appropriation bills—		
Agriculture, Environmental and Consumer Protection	+801	−393
Defense	−3,000	−536
District of Columbia	+0	−15
Foreign Operations	−1,203	−10
HUD, Space, Science, Veterans	−1,000	+1,439
Interior	+0	+73
Labor, Health, Education, and Welfare	+2,166	−789
Legislative	−12	−60
Military Construction	−151	−135
Public Works, AEC	+0	−8
State, Justice, Commerce, the Judiciary	+0	−57
Transportation	+0	−112
Treasury, U.S. Postal Service, General Government	+0	−140
Supplementals (delayed fiscal year 1973 and for fiscal year 1974)	+0	−73
Proposed legislation, gold devaluation	+0	−47
Total appropriations bills through appropriation process (A)	−2,399	−863

TABLE 4.—COMMITTEE ON APPROPRIATIONS, U.S. SENATE—RECAPITULATION OF EFFECT OF CONGRESSIONAL ACTION ON PRESIDENTIAL ESTIMATES OF BUDGETARY OUTLAYS OF FEDERAL FUNDS FOR FISCAL YEAR 1974—DEC. 2, 1973

[In millions of dollars]

	Outlays, estimates in President's budget of January 1973 as revised (1)	Outlays, total expected as the result of legislative action as of Dec. 20, 1973 (2)	Outlays, changes from President's budget as of Dec. 20, 1973 (col. 2 minus col. 1) (3)
A. Outlays from appropriation bills—			
Agriculture, Environmental and Consumer Protection	$11,663	$12,212	+$549
Defense	74,982	73,472	−1,510
District of Columbia	423	410	−13
Foreign Operations	4,074	3,882	−192
HUD, Space, Science, Veterans	20,224	20,224	+0
Interior	2,724	2,767	+43
Labor, Health, Education, and Welfare	32,852	33,312	+460
Legislative	626	610	−16
Military Construction	2,226	2,216	−10
Public Works, AEC	$5,266	$5,286	$+20
State, Justice, Commerce, the Judiciary	4,712	4,688	−24
Transportation	8,525	8,486	−39
Treasury, U.S. Postal Service, General Government	5,592	5,524	−68
Supplementals (delayed fiscal year 1973 and to fiscal year 1974)	5,117	5,076	−41
Proposed legislation			
Total appropriations bills through appropriation process (A)	179,006	178,165	−841

TABLE 5.—COMMITTEE ON APPROPRIATIONS, UNITED STATES SENATE—BUDGET ESTIMATES OF NEW BUDGET AUTHORITY CONSIDERED IN APPROPRIATION BILLS, 93D CONG., 1ST SESSION, AS OF DEC. 21, 1973

Does not include any back-door type budget or spending authority in legislative bills; or any permanent (Federal or trust) authority, under earlier or permanent law,[1] without further or annual action by the Congress]

Bill and fiscal year	House actions			Senate actions			Final action	
	Budget requests considered	Approved by House	Compared with budget requests	Budget requests considered	Approved by Senate	Compared with budget requests	Conference agreement	Compared with budget requests
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
A. Bills for fiscal 1974:								
1. Legislative (H.R. 6691)	$566,945,389	$550,044,940	−$16,900,449	$677,150,959	$640,558,952	−$36,592,007	$605,189,933	−$71,961,026
2. Agriculture-Environmental and Consumer Protection (H.R. 8619)	9,505,750,600	9,385,737,600	−120,013,000	9,519,550,600	10,176,926,500	+657,375,900	9,927,667,000	+408,116,400
3. District of Columbia (Federal funds) (H.R. 8658)	432,998,000	427,717,000	−5,281,000	432,998,000	417,717,000	−15,281,000	417,717,000	−15,281,000
4. Transportation (H.R. 8760)	[2] 2,892,732,006	[2] 2,753,231,006	−139,501,000	[2] 3,010,732,006	[2] 2,968,451,006	−42,281,000	2,898,446,006	−112,286,000
5. HUD-Space-Science-Veterans (H.R. 8825)	18,617,453,000	19,070,954,000	+453,501,000	18,617,453,000	19,118,373,063	+500,920,063	19,056,500,000	+439,047,000
6. Labor-HEW (H.R. 8877)	31,544,954,000	32,816,467,000	+1,271,513,000	31,549,953,000	33,396,379,000	+1,846,426,000	32,926,796,000	+1,376,843,000
7. Interior (H.R. 8917)	2,274,431,300	2,269,554,200	−4,877,100	2,370,367,300	2,488,773,700	+118,406,400	2,443,137,200	+72,769,900
8. State-Justice-Commerce-Judiciary (H.R. 8916)	4,235,080,000	4,152,946,000	−82,134,000	4,522,901,000	4,459,478,250	−63,422,750	4,466,012,000	−56,889,000
9. Public Works—AEC (H.R. 8947)	4,757,469,000	4,676,395,000	−81,074,000	4,757,469,000	4,772,982,000	+15,513,000	4,749,403,000	−8,066,000
10. Treasury-Postal Service-General Government (H.R. 9590)	5,073,345,000	4,844,723,000	−228,622,000	5,373,345,000	5,123,352,000	−249,993,000	5,233,189,000	−140,156,000
11. Defense (H.R. 11575)	77,250,723,000	74,101,309,000	−3,149,414,000	77,250,723,000	73,264,627,000	−3,986,096,000	73,714,930,000	−3,535,793,000
12. Foreign Assistance (H.R. 11771)	6,866,567,000	5,833,912,000	−1,032,655,000	6,992,917,000	5,593,440,000	−1,399,477,000	5,780,434,000	−1,212,483,000
13. Military Construction (H.R. 11459)	2,944,900,000	2,609,090,000	−335,810,000	2,944,900,000	2,670,972,000	−273,928,000	2,658,861,000	−286,039,000
14. Special Resolution, Gold Devaluation (H.J. Res. 748)	2,250,000,000	2,203,000,000	−47,000,000	2,250,000,000	2,203,000,000	−47,000,000	2,203,000,000	−47,000,000
15. Supplemental (H.R. 11576)	1,428,790,218	1,433,035,718	+4,245,500	1,534,183,886	1,888,425,386	+354,241,500	1,703,125,386	+168,941,500
Total, bills for fiscal 1974, to date	170,642,138,513	167,128,116,464	−3,514,022,049	171,804,643,751	169,183,455,857	−2,621,187,894	168,784,407,525	−3,020,236,226
B. Bills for fiscal 1973:								
1. Urgent Supplemental (H.J. Res. 496)	1,366,800,000	1,368,600,000	+1,800,000	1,366,800,000	1,368,600,000	+1,800,000	1,368,600,000	+1,800,000
2. 2d Supplemental (H.R. 7447, vetoed)	[3,162,880,434]	[2,855,542,209]	[−307,338,225]	[3,607,105,504]	[3,699,239,279]	[+92,133,775]	[3,362,845,279]	[−244,260,225]
3. 2d Supplemental (H.R. 9055)	3,607,105,504	3,362,845,279	−244,260,225	3,607,105,504	3,362,845,279	−244,260,225	3,362,845,279	−244,260,225
Total, bills for fiscal 1973	4,973,905,504	4,731,445,279	−242,460,225	4,973,905,504	4,731,445,279	−242,460,225	4,731,445,279	−242,460,225
Totals for the session, to date	175,616,044,017	171,859,561,743	−3,756,482,274	176,778,549,255	173,914,901,136	−2,863,648,119	173,515,852,804	−3,262,696,451

[1] The Budget for 1974, as submitted Jan. 29, 1973, tentatively estimated total new budget authority for 1974 at $288,029,000,000 gross ($256,761,000,000 net of some $31,268,000,000 interfund and intragovernmental transactions and certain so-called proprietary receipts handled as offsets for budget summary purposes only). Of this total, an estimated $146,477,000,000 does not require current action by Congress; it involves so-called permanent appropriations such as interest and various trust funds, already provided for in other basic laws. The remainder, $172,820,000,000 is for consideration at this session (mostly in the appropriation bills) except for increased pay costs which will be considered at the 2d session of the 93d Congress. About $8,600,000,000 of the $172,820,000,000 was shown in the January budget as being "for later transmittal" for supplemental requirements under present law, new legislation, and allowances for contingencies and civilian pay raises, and $49,534,408 of the remainder requires legislative reauthorization through various annual authorization bills or where the authorization expires periodically.

[2] Includes $90,360,000 in advance 1975 appropriations.

Mr. McCLELLAN. Mr. President, I have today mailed to each Senator, at his home address, a copy of my remarks and the accompanying tables, which have been placed in the RECORD. I mailed this material to the home of each Senator because a number of Senators have departed from Washington. The information might serve as a useful reference for them during the recess of Congress.

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

Mr. McCLELLAN. I yield.

Mr. HANSEN. Mr. President, the senior Senator from Wyoming is in the Chamber at this time, and I am certain that he will agree with me that the people of Wyoming, along with people throughout the United States, appreciate the tremendously effective job that has been done by the Senator from Arkansas, the distinguished chairman of the Committee on Appropriations.

My colleague from Wyoming, Senator McGEE, will agree that the Senator from Arkansas (Mr. McCLELLAN) is well and favorably known in Wyoming. A strong bipartisan suggestion was made in our State of Wyoming that the Senator from Arkansas be nominated by the President to serve on the Supreme Court of the United States.

I am very pleased and gratified with the leadership of the Senator from Arkansas in trying to bring about that condition in our economy which will meet the reasonable expectation of the aspirations that are shared by most Americans. We know that his ability to bring about a near balance between expenditures and appropriations is significant; it is genuinely appreciated. As we move in the direction of achieving the goal to which he has dedicated himself for many years, at the same time we

offer real reason to the American public to rejoice that there has been, indeed, a return to good judgment and commonsense in the Senate and Congress.

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

Mr. McCLELLAN. I yield.

Mr. McGEE. Mr. President, I want to join arms and rhetoric with my junior colleague. We in Wyoming often have talked about the senior Senator from Arkansas because of his thoughtfulness and generosity and real responsibility in understanding our problems. We have expressed the hope that he might be willing to accept the designation as Wyoming's third Senator. We have unanimous consent in the State, by the people of Wyoming—and he does not have the option of refusing—that he is hereby so designated.

The chairman of the full committee is always a very considerate committee chairman. I serve on the committee with the distinguished Senator from Arkansas, and he is very consistent and very forthright in delegating responsibility to his subcommittee chairmen and working with them, trying to help them achieve the goals they believe to be relevant in their particular areas of authorization.

I take this opportunity to say that his thoughtfulness in sending to Senators the report he has submitted this morning, and the summary of the year's efforts on the part of the Committee on Appropriations, to participate in this real sobering responsibility of trying to establish equities and priorities in the allocation of funds, is immeasurable, and I salute him for his leadership.

Mr. McCLELLAN. I thank my distinguished friends, the Senators from Wyoming. They have just presented me a most gracious Christmas greeting—one so generous that I shall not anticipate receiving another so pleasant or of greater surprise. I accept in the spirit of Christmas and thank both Senators for their most pleasing exaggerations.

I do wish to say that whatever the Committee on Appropriations has accomplished this year—and I do feel we have made a little progress—has been brought about through the cooperative efforts and dedications of all members of the committee, along with the membership of the Senate. We have stemmed the tide of reckless expenditures. We have reversed the trend, and we are moving now, hopefully, to a more thorough examination of requests and a more judicious consideration and judgment with respect to those requests. Hopefully, if this continues, and I am confident it will, we will move back toward a balanced budget and a greater stability in our fiscal affairs.

I notice that this year there seems to be a disposition on the part of Members of the Senate to cooperate more fully with the Committee on Appropriations. I sense it; I feel that, at least, I am most grateful to all of my colleagues.

ORDER OF BUSINESS

Mr. McGEE. Mr. President, I wish to ask what the parliamentary situation is.

The PRESIDING OFFICER (Mr. RANDOLPH). There is nothing pending at the present time.

SEWAGE TREATMENT CONSTRUCTION GRANTS—MESSAGE FROM THE HOUSE

Mr. MUSKIE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2812.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2812) to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes, which were to strike out all after the enacting clause, and insert:

That (a) subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by inserting immediately after the third sentence thereof the following new sentence: "For the fiscal years ending June 30, 1975, and June 30, 1976, such ratio shall be determined one-half on the basis of table I of House Public Works Committee Print Numbered 93–28 and one-half on the basis of table II of such print, except that no State shall receive an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of such print.".

(b) The last sentence of subsection (a) of section 205 of the Federal Water Pollution Control Act is amended by striking out "June 30, 1974," and inserting in lieu thereof "June 30, 1976,".

SEC. 2. Section 203 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be construed to require, or to authorize the Administrator to require, that grants under this Act for construction of treatment works be made only for projects which are operable units usable for sewage collection, transportation, storage, waste treatment, or for similar purposes without additional construction.".

SEC. 3. Section 511 of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding this Act or any other provision of law, the Administrator (1) shall not require any State to consider in the development of the ranking in order of priority of needs for the construction of treatment works (as defined in title II of this Act), any water pollution control agreement which may have been entered into between the United States and any other nation, and (2) shall not consider any such agreement in the approval of any such priority ranking.", amend the title so as to read: "An Act to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities."

Mr. MUSKIE. Mr. President, I move that the Senate concur in the House amendments with certain amendments which I send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The assistant legislative clerk read as follows:

On page 1, line 4 of the text of the amendment strike "years" and insert in lieu thereof "year";

On page 1, line 4 and 5 of the text of the amendment, strike "and June 30, 1976,";

On page 2, line 2, strike "1976" and insert in lieu thereof "1975"; and

On page 2, after line 23, add the following new section:

SEC. 4. Subsection (b) of section 516 of the Federal Water Pollution Control Act, as amended (86 Stat. 895), is amended by inserting "(1)" after "(b)"; by striking "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and by adding the following new pargraph:

"(2) Notwithstanding the second sentence of paragraph (1) of this subsection, the Administrator shall make a preliminary detailed estimate called for by subparagraph (B) of such paragraph and shall submit such preliminary detailed estimate to the Congress no later than September 3, 1974. The Administrator shall require each State to prepare an estimate of cost for such State, and shall utilize the survey form EPA–1, O.M.B. No. 158–R0017, prepared for the 1973 detailed estimate, except that such estimate shall include all costs of compliance with section 201(g)(2)(A) of this Act or water quality standards established pursuant to section 303 of this Act, and all costs of treatment works as defined in section 212(2), including all eligible costs of constructing sewage collection systems and correcting excessive infiltration or inflow and all eligible costs of correcting combined storm and sanitary sewer problems and treating storm water flows. The survey form shall be distributed by the Administrator to each State no later than January 31, 1974.".

Mr. MUSKIE. Mr. President, one week ago today the Senate passed S. 2812 authorizing a formula for the allocation of funds authorized for fiscal year 1975 for sewage construction grants and for other purposes.

This past week the House amended this bill in several significant respects.

The House has substituted a different ratio for the allocation of wastewater treatment grants. That ratio is to be determined one-half on the basis of table I of House Public Works Committee print No. 93–28 and one-half on the basis of table II of such print. Under this amendment, no State shall receive for fiscal year 1975 an allotment less than that which it received for the fiscal year ending June 30, 1972, as set forth in table III of the House Public Works Committee print.

The House amendment required that this ratio be used for allocating funds for both fiscal years 1975 and 1976.

Mr. President, the amendment I propose would limit the use of the House ratio to fiscal year 1975 only as was proposed in the original Senate version of S. 2812.

The amendment I propose would restore the Senate requirement that the Administrator of the Environmental Protection Agency accelerate the "needs" survey required under section 516(b) of the Federal Water Pollution Control Act of 1972. This amendment requires the Administrator to submit a preliminary detailed cost estimate to Congress no later than September 3, 1974. The final results will be expected no later than February 10, 1975 as required in section 516(b).

This is a modification, as to date, of the Senate provision, but in other respects is similar in intent and purpose to

the original Senate bill. The Administrator need only transmit a summary of categorized costs that States submit. If the Administrator has time, he may also accompany the report with appropriate analysis and a recommendation.

In adopting these amendments, the Public Works Committee of each House expects the Environmental Protection Agency to do three things: First, to insure an accurate estimate of all needs for all treatment works, the agency should develop more definitive statements and definitions of which costs will be eligible. Second, the Agency should consult with the Committees on Public Works of both Houses prior to going forward with the survey. Third, the agency should provide monthly reports to Congress on the progress of the preliminary detailed estimate of survey needs.

In amending section 203 of Public Law 92–500, the House has included substitute language on the issue of phased funding. The Senate and House amendments overrule an erroneous interpretation by the Environmental Protection Agency on how projects are to be funded. Presently, the Agency limits grants for portions of treatment works which are "operable units." As the House and Senate noted, this was not the intent of the Congress. The difference between the two bills is related to whether grants are made to financial phases or engineering phases of projects. The House, in requiring that grants be made for projects which are operable units, narrows the Senate's provision, but corrects the basic flaw in Agency interpretation.

Finally, the House included an additional provision which prohibits the Environmental Protection Agency from requiring States to establish, in their construction grant priority lists, a preference for projects which treat wastes to be discharged into international waters.

I recommend the Senate accept this amendment.

The basic cause of the problem we face in fulfilling obligations to clean up international treaties stems from earlier action by this administration. If the administration had not impounded water pollution control allocations, there could have been adequate funds available to meet our international commitments as well as meet the needs of the States for construction of other waste treatment facilities. The attempt by the administration to pressure the States to place international projects at the top of their priority list is an unacceptable response to the failure to release adequate funds.

The illegal decision to impound water pollution funds has created tremendous problems. The administration is now feeling the rebound of that action. The correct policy would be to release the impounded allocations.

SENATOR RANDOLPH SUPPORTS EQUITABLE DISTRIBUTION OF WATER TREATMENT FUNDS

Mr. RANDOLPH. Mr. President, the Federal Water Pollution Control Act which became law a year ago committed the Federal Government to a major new effort to end the discharge of pollutants into our country's waters.

To bring that commitment into being, the act authorized the expenditure of substantial sums to assist States and local governments in providing the physical facilities needed to reduce water pollution.

The legislation before the Senate establishes the formula for allocating funds among the States for the construction of waste treatment facilities in fiscal year 1975. Approval of this formula was a right the Congress held to itself when the act was developed.

Utilizing information as to the needs for these facilities which has been gathered by the Environmental Protection Agency, the Congress will approve the formula by which Federal assistance will be distributed. The bill before us makes this allocation in an equitable manner. Its provisions were worked out in meetings with Members of the House of Representatives. Through this procedure we have avoided the necessity for a Senate-House conference at this late date in the congressional session.

This bill is a compromise of the positions previously taken by the Senate and House of Representatives. The formula provides for the allocations of half of waste treatment construction funds in the manner recommended by the Environmental Protection Agency. The other half will be allocated on the basis of the Agency's table 3 which reflects its assessment of all categories of national needs. No State will receive less than it received for the 1972 fiscal year, as in the House bill.

Mr. President, this legislation allocates funds only for fiscal year 1975 as provided in the original Senate bill. A 2-year allocation formula, as adopted by the House, has been deleted.

In developing this bill earlier this month, the Senate Committee on Public Works was concerned that the needs study of the Environmental Protection Agency did not accurately reflect needs. We, therefore, agreed to require an additional survey next year before allocating funds for fiscal year 1976.

The bill reflects this concern with the procedures used for ascertaining waste treatment facility needs. It directs the Administrator of the Agency to restudy needs and report to the Congress by September 3, 1974. This report is viewed as a preliminary version of the report required by law to be submitted on February 10, 1975. The September preliminary report will be the basis for allocating 1976 funds.

Mr. President, this bill is intended to permit States and communities to meet the responsibilities imposed under the Federal Water Pollution Control Act to halt pollution.

It will not be successful, however, so long as the executive branch continues to make impossible the allocation of all the funds authorized.

For fiscal years 1973 and 1974 the act authorized $11 billion, but only $5 billion was allocated. There are $7 billion authorized for fiscal year 1975, but we have been led to believe that a substantial portion of this amount also will be impounded.

Mr. President, the denial of this construction authority to the States can seriously undermine the thrust of the total water pollution control program. Ambitious goals were set in the 1972 act, goals that are attainable if we are willing to address ourselves to the task. We have the technology and we have the resources. The continued impoundment of these funds by the administration brings into doubt whether it has the determination to make this program succeed.

Under the law, the allocation formula must be approved by the Congress before the end of this month. Approval will permit the orderly continuation of this important program. I urge approval of this bill.

Mr. DOMENICI. Mr. President, I am here in behalf of the Senator from Tennessee (Mr. BAKER), the ranking member of the committee involved. The Senator from Tennessee is detained because of transportation problems. He has a prepared statement indicating the consensus on the Repubilcan side. We compliment the chairman for his work.

I ask unanimous consent that the statement of the Senator from Tennessee be printed in the RECORD.

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

STATEMENT BY SENATOR BAKER

Mr. President, I wish to express my support for S. 2812, legislation authorizing the allocation of Fiscal 1975 sewage construction funds.

There are two facets of significance in this legislation. This bill authorizes the distribution of sewage treatment funds based entirely on the needs of the states. The needs formula is not as generous to some states as was the earlier Senate formula based partly on needs, partly on population. I support this change because I believe that a "needs" formula, however flawed, is the proper basis for the distribution of funds under this program. It is my expectation that EPA and the states will develop a more realistic needs formula in time for the fiscal 1976 distribution.

The other vital aspect of this bill involves Congressional restatement of the authority for a state to permit phased funding of sewage-treatment projects. P.L. 92–500 recognized the reasonableness of such an approach, including language that permits states and communities to finance portions of projects in any given year, then obtaining further funds in subsequent years.

Unfortunately, the Environmental Protection Agency failed to allow such "phasing". That decision hampered the ability of many state water pollution control agencies to develop the most effective and logical control program. Often funding of a large project prevented the start of construction of other needed projects on a State's priority list.

This bill will rectify that EPA error and it will assure states the ability to phase-fund projects.

While this language is somewhat different from language I introduced as S. 1594, subsequently incorporated into an earlier version of this bill, this new language will have the same impact and intent as S. 1594.

This section will give to the States the right and ability to seek approval—and for EPA to grant such approval—for 75 percent grants toward a portion of a treatment works, whether that portion is selected on a financial or physical basis. A community might, for example, seek initially a grant for one-fifth of the total cost of construction of a plant. Or it might seek funds for the first 1,000 feet of an interceptor sewer. In future years, the applicant would come back for further grants to finish each project.

EPA should view phasing as an opportunity for flexibility to get more projects on line more quickly, and thus to achieve our national goal of clean water more expeditiously.

I urge the adoption of this bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

RECESS SUBJECT TO CALL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Republican leader or the Democratic leader.

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

Thereupon, at 12:27 p.m. the Senate took a recess subject to the call of the Republican or Democratic leader.

At 12:33 p.m., the Senate reassembled when called to order by the Presiding Officer (Mr. HANSEN).

AMENDMENT OF DISTRICT OF COLUMBIA REVENUE ACT OF 1947

Mr. INOUYE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 6186, to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions.

The PRESIDING OFFICER laid before the Senate the following message:

Resolved, That the House agree to the amendments of the Senate numbered 1 and 2 to the bill (H.R. 6186) entitled "An Act to amend the District of Columbia Revenue Act of 1947 regarding taxability of dividends received by a corporation from insurance companies, banks, and other savings institutions."

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendment:

In lieu of the matter proposed to be inserted, insert:

SEC. 3. (a) Part C of title VII of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof the following:

"Political Participation in the First Election Held Under The Act

"SEC. 724. (a) In order to provide continuity in the government of the District of Columbia during the transition from the appointed government to the elected government provided for under this Act, no person employed by the United States or by the government of the District of Columbia (including the Commissioner of the District of Columbia and the Chairman, Vice Chairman, and members of the District of Columbia Council established under Reorganization Plan Numbered 3 of 1967) shall be prohibited by reason of such employment—

"(1) from being a candidate in the first election held under this Act for, or

"(2) if such a candidate, from taking an active part in political management or political campaigns in such election which relate to,

the office of Mayor or Chairman or member of the Council of the District of Columbia provided for under title IV of this Act.

"(b) The provisions of this section shall terminate as of January 2, 1975."

(b) The table of contents for part C of title VII of such Act is amended by inserting at the end of that part the following new item:

"Sec. 724. Political participation in the first election held under this Act."

SEC. 4. (a) Section 741 of the District of Columbia Self-Government and Governmental Reorganization Act is repealed.

(b) The table of contents for part D of title VII of such Act is amended by striking out the item relating to section 741.

Mr. INOUYE. Mr. President, I move that the Senate disagree to the House amendment and request a conference with the House of Representatives on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. EAGLETON, Mr. INOUYE, and Mr. MATHIAS conferees on the part of the Senate.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the same conditions as before.

There being no objection, at 12:34 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 12:35 p.m. when called to order by Mr. CHILES.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate the conference report on S. 2589, the Energy Emergency Act.

First, 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. 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.

Mr. MANSFIELD. Mr. President, I renew my request that the conference report on S. 2589, the Energy Emergency bill, be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The report will be stated by title.

The second assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

[To accompany S. 2589]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

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Sec. 101. Findings and purposes.
Sec. 102. Definitions.
Sec. 103. Federal Energy Emergency Administration.
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Sec. 106. Coal conversion and allocation.
Sec. 107. Materials allocation.
Sec. 108. Federal actions to increase available domestic petroleum supplies.
Sec. 109. Other amendments to the Emergency Petroleum Allocation Act of 1973.
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Sec. 112. Prohibitions on unreasonable allocation regulations.
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Sec. 119. Prohibited acts.
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TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS
Sec. 201. Suspension authority.
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Sec. 205. Protection of public health and environment.
Sec. 206. Energy conservation study.
Sec. 207. Reports.
TITLE III—STUDIES AND REPORTS
Sec. 301. Agency studies.
Sec. 302. Reports of the President to Congress.

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a)(1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (a)(1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employ- specified in subparagraphs (A) through (F) ment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law a Federal Energy Emergency Administration which shall be temporary and will be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions, powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d)(1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Emergency Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission of such recommendations, testimony, or comments to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objective of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) the rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4(b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b) and shall apply in each State except as otherwise provided in the regulation promulgating the plan.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than May 15, 1975.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by a regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any regulation promulgating an energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such action shall take effect on the date provided in the action; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that said House does not favor the energy action, the regulation promulgating such plan shall cease to be effective on the date of passage of such resolution.

(B) If a regulation promulgating an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974, such action shall take effect at the end of the first period of 15 calendar days of

continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that said House does not favor the energy action.

(C) A plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may be made effective at a time later than the date on which the action otherwise is effective.

(c)(1) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2) For the purpose of this subsection, 'resolution' means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: 'That the ——— does not favor the energy conservation plan numbered ——— transmitted to Congress by the Administrator of the Federal Energy Emergency Agency on ———, 19—.', the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

"(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(4)(A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to said energy conservation plan which has been referred to the committee.

"(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

"(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

"(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate."

(d)(1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry.

(3) Such analysis shall, whenever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses: *Provided*, That the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as would otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installation to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall within 30 days after the date of enactment of this Act propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of the plan into effect, he shall transmit such plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 to which section 105(b)(3)(B) applies (but such plan may be submitted at any time after enactment of this Act and before May 15, 1975).

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for

the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require by order or rule the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refiners to produce refined products in proportions commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect on later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975."

SEC. 110. PROHIBITION ON WINDFALL PROFITS—PRICE GOUGING.

(a)(1) The President shall exercise his authority under the Emergency Petroleum Allocation Act of 1973 and under the Economic Stabilization Act of 1970 so as to specify prices for sales of petroleum products produced in or imported into the United States, which avoid windfall profits by sellers.

(2) Any interested person, who has reason to believe that any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of petroleum products permits a seller thereof any windfall profits, may petition the Renegotiation Board (created by section 107(a) of the Renegotiation Act of 1951 and hereinafter in this subsection referring to as the 'Board') for a determination under subparagraph (A) or (B) or paragraph (3).

(3)(A) Upon petition of any interested person, the Board may by rule determine, after opportunity for oral presentation of views, data, and arguments, whether the price (specified under any of the authorities referred to in paragraph (1) of petroleum product permits sellers thereof to receive windfall profits. Upon a final determination of the Board that such price permits windfall profits to be so received, it shall specify a price for such sales which will not permit such profits to be received by such sellers. After such a final determination, no higher price may be specified (under any of the authorities specified in paragraph (1)) except with the approval of the Board.

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits. If such persons are not reasonably ascertainable, the Board shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

(C) Notwithstanding section 108 of the Renegotiation Act of 1951 and section 211 of the Economic Stabilization Act of 1970, any final determination under subparagraph (A) or (B) shall be subject to judicial review in accordance with sections 701 through 706 of title 5, United States Code.

(4)(A) The Board may provide, in its discretion under regulations prescribed by the Board, for such consolidation as may be necessary or appropriate to carry out the purposes of this subsection.

(B) The Board may make such rules, regulations, and orders as it deems necessary or appropriate to carry out its functions under this subsection.

(5) The determination and approval authority of the Board under this paragraph may not be delegated or redelegated pursuant to section 107(d) of the Renegotiation Act of 1951 to any agency of the Government other than an agency established by the Board.

(6) For the purposes of subparagraph (B) of paragraph (3), the term "windfall profits" means that profit (during an appropriate accounting period as determined by the Board) derived from the sale of any petroleum product determined by the Board to be in excess of the lesser of—

(A) a reasonable profit with respect to the particular seller as determined by the Board upon consideration of—

(i) the reasonableness of its costs and profits with particular regard to volume of production;

(ii) the net worth, with particular regard to the amount and source of capital employed;

(iii) the extent of risk assumed;

(iv) the efficiency and productivity, particularly with regard to cost reduction techniques and economies of operation; and

(v) other factors the consideration of which the public interest and fair and equitable dealing may require which may be established and published by the Board; or

(B) the greater of—

(i) the average profit obtained by sellers for such products during the calendar years 1967 through 1971; or

(ii) the average profit obtained by the particular seller for such products during such calendar years.

(7) Except as provided in paragraph (6), for the purposes of this subsection, the term "windfall profits" means profit in excess of the average profit obtained by all sellers for such products during the calendar years 1967 through 1971.

(8) For the purposes of this subsection, the term "interested person" includes the United States, any State, and the District of Columbia.

(9) This subsection shall not apply to the first sale of crude oil described in subsection (e)(2) of this section (relating to stripper wells).

(10) This section shall take effect on January 1, 1975, and shall apply to profits attributable to any price (specified under any of the authorities referred to in paragraph (1) of this subsection) of crude oil, residual fuel oil, and refined petroleum products in effect after December 31, 1973.

(b) Notwithstanding any other provision of law, administrative proceedings before the Board under this section shall be governed by subchapter II of chapter 5 of title 5, United States Code, and such proceedings shall be reviewed in accordance with chapter 7 of such title.

SEC. 111.—PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purposes of en-

gaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraphs (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided*, That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (i), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 14 et seq.), as amended;

(4) sections 37 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9); as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I); whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any intertested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (1) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to the Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(5) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel, or any refined petroleum product that—

(1) Such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provision of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (l)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and section 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsection (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployment, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet

such needs, including revisions in the unemployment insurance laws.

SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles:

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum

Allocation Act of 1973 and section 113) or to violate any rule, regulation including an energy conservation plan or order issued pursuant to such provisions.

SEC. 120. ENFORCEMENT

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having previously been subjected to a civil penalty for a subsequent violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any provision of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with such provision of section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative of implementation and enforcement of the Energy Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(a) and (b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local conservative measures which is the basis of an exemption from a Federal energy conservation plan under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by products; and (4) and other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the purposes of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire on midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

If any provision of this Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

"SEC. 129. PRICE AUTHORITY.

"The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974."

"SEC. 130. IMPORTATION OF LIQUEFIED NATURAL GAS.

"The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

" 'SEC. 9. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.' "

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source of fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1).

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) reasonable assurance that such source will achieve at least the same degree of emission reduction by January 1, 1979, as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section; (ii) for compliance by the means specified in subparagraph (B) in accordance with a schedule for compliance which meets the requirements of such subparagraph; and (iii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall by regulation prescribe requirements that sources to which this subsection applies submit and obtain approval of schedules of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such coal or coal by-products to be burned in compliance with the applicable implementation plan (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it is required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views to the extent practicable) (i) shall prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; or (ii) may require such source to use a particular grade of coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection, section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproducts technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted

under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (i)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register, the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with sources presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, and electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration designate persons to whom fuel exchange order should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health of any suspension under subsection (a) of this section or conversion to coal under subsection (b) or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B)(1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary or secondary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing, promulgated a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action to take this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provisions of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"Sec. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy

improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance levels.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports to petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of Section —— the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall recommend to the Congress actions to be taken regarding the problem of the sitting of energy producing facilities.

(C) The Administrator of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public land including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their Judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

EMERGENCY CONSERVATION REGULATIONS

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to propose to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 1, 1974, in order to reduce demand in the harsh winter months of January and February without

delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 1, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after June 30, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant statutes which the Congress has passed since 1933 delegating to the President powers that have been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling our Constitutional balance of liberty and authority. The Conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmly believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

Federal Emergency Energy Administration

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuel shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congress will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to a Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and was considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administration's proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATIONS AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, call for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, here must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justness, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to the traditional notion of fairness and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporeaneously with implementations of any proposed action between date of enactment and March 1, 1974.

The committee is concerned about the very real threat of the cutoff of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

END USE RATIONING AUTHORITY

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end-use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

SHORT TITLE—TABLE OF CONTENTS

Senate bill

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation.

Conference substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TABLE I—ENERGY EMERGENCY AUTHORITIES

FINDINGS AND PURPOSES

FINDINGS

Senate bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency, the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House amendment

No provision.

Conference substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

DECLARATION OF EMERGENCY

Senate bill

Under Section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

House amendment

No provision.

Conference substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

PURPOSES

Senate bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

House amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

Conference substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

DEFINITIONS

Senate bill

No provision.

House amendment

Section 102 defined the terms "State", "petroleum product", "United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administration which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

FEDERAL ENERGY ADMINISTRATION

Senate bill

No provision.

House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the President or the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress. No officer or agency of the United States may require the FEEA to submit its legislative recommendations or testimony or comments to any officer or agency of the United States for approval, comments, or review prior to the submission thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY

Senate bill

ENERGY RATIONING AND CONSERVATION PROGRAM

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation. Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing

scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

FUEL DISTRIBUTION PLAN

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

House amendment

ENERGY CONSERVATION PLANS

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restrictions should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

AMENDMENT TO EMERGENCY PETROLEUM ALLOCATION ACT OF 1973 (EPAA)

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsections (1) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

(a) moves of armed services personnel on orders;

(b) household moves related to employment;

(c) household moves rising from displacement due to unemployment; and

(d) moves due to health, educational opportunities, or other good and sufficient reasons.

Conference substitute

END-USE ALLOCATION

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h).

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for review and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the Congress specifically states that no taxing authority, of any type, is granted.

ENERGY CONSERVATION REGULATIONS

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

(1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,

(2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,

(3) shall apply according to its terms in each State except as otherwise provided in the regulation, and

(4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such an energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 1, 1974 and before July 1, 1974. such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after July 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effect of such actions on certain en-

tities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

COAL CONVERSION AND ALLOCATION

Senate bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

House amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106(b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentation of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

Conference substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal as provided in section 119 (b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) is an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

MATERIALS ALLOCATION

Senate bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

House amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

Conference substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation purpose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES

Senate bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

House amendment

Section 103(a) would add a new section 4(h)(4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207(c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

Conference substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 108(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

OTHER AMENDMENT TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Senate bill

No provision.

House amendment

Section 103(a) of the House amendment would have added a new subsection (l) to

section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c)(3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g)(1) of the EPAA to change the termination date in each case to May 15, 1975.

Conference substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (1),

(2) population growth and unusual changes in climatic conditions are added as a factor on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census, and

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation.

(4) the amendment to section 4(c)(3) is omitted.

PROHIBITION OF WINDFALL PROFITS—PRICE GOUGING

Senate bill

No provision.

House amendment

Section 117 would amend section 4 of the Emergency Petroleum Allocation Act of 1973 by adding a new subsection to prevent price gouging with respect to sales of crude oil, residual fuel oil, refined petroleum products, and *coal*, including sales of diesel fuel to motor common carriers. The amendment would direct the President to use authority under the Act and under the Economic Stabilization Act of 1970, to specify prices for sales of crude oil, refined petroleum products, residual fuel oil, produced in or imported into the United States, which avoid windfall profits by sellers.

Any interested person who had reason to believe that established prices allowed windfall profits could petition the Renegotiation Board for a determination by rule of the existence of such profits and for their recovery. The seller would be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon final determination that such price permitted windfall profits, the Board would order the seller to refund an equivalent amount to those affected purchasers reasonably ascertainable. The Board could order a reduction in price for future sales of such item or take other appropriate action. The Board's final determination is subject to judicial review.

The term "windfall profits" would be specifically defined in paragraphs (6) and (7). Such profits would refer only to profits earned during the period beginning with the enactment of the Act and ending on the date of its expiration. Actions to determine or recover windfall profits must be brought within one year of the Act's expiration.

Conference substitute

Section 110 of the conference substitute is the same as the House amendment, except that—

(1) the provisions are not stated as amendment to the EPAA,

(2) the provisions of the conference substitute would only apply to petroleum products, and

(3) [omitted pending agreement on provisions of proposed section 110(a)(10)].

PROTECTION OF FRANCHISED DEALERS

Senate bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which such franchise would be cancelled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

House amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

Conference substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor", "refiner" and "retailer" are defined in terms of a *person* engaged in certain acts, rather than in terms of an *oil company* engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity.

PROHIBITIONS ON UNREASONABLE ACTIONS

Senate bill

No provision.

House amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment, without the specification that the normal function of commercial, retail, and service establishments must be to supply goods and services of an essential nature.

REGULATED CARRIERS

Senate bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Section 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

House amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to be submitted until 60 days after the date of enactment of the legislation.

In addition, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

Conference substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

ANTITRUST LAWS

Senate bill

Under section 314, the President would develop plans of action and could authorize

voluntary agreements which are necessary to achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any section taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of section 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation. Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

House amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carry out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on completion and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

RETAIL AND SERVICE ESTABLISHMENTS—VOLUNTARY ENERGY CONSERVATION AGREEMENTS

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be attended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available for public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

Conference substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

EXPORTS

Senate bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

House amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Ad-

ministration Act of 1969. Rules should take into account the historical trading relations with Canada and Mexico and should not be inconsistent with section 4 (b) and (d) of the Environmental Protection Agency Act.

Conference substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction or exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toluene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce (in connection with the administration of the Export Administration Act. This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

EMPLOYMENT IMPACT AND WORKER ASSISTANCE

Senate bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Secretary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

House amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Conference substitute

Section 116 of the conference substitute is the same as the House amendment, except that the provision for authorization of appropriations is deleted.

In adopting this provision, the Conferees expressed the serious concern that a broad interpretation of this section could result in massive Federal expenditures beyond those intended by this provision. The Conferees therefore wish to make it clear that this section is intended to apply only to those persons directly unemployed as a result of the implementation of any of the authority provided for in this Act.

The authorization is limited to $500,000,000 for the remainder of fiscal year 1974. Funds for this purpose must, of course, be appropriated by the Congress.

The Committee intends that at a time when the American people are being called upon to make sacrifices and share the burden of the energy shortage the Federal government should provide a program of unemployment assistance to State government that is adequate to cover essential human needs.

USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

Senate bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within DOT an Office of Carpool Promotion and authorizes an appropriation of $25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

House amendment

Section 116(a)–(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only $1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

Conference substitute

Section 117(a) through (h) of the conference substitute is the same as section 116(a) through (h) of the House amendment with two exceptions. The sum of $5 million, not $1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Senate bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311 (b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five days) by publication in the Federal Register of all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a sched-

ule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

House amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special administrative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation Act. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

Conference substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311 (c)(1) of the Senate bill as section 118(a)(5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

PROHIBITED ACTS

Senate bill

No provision.

House amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Conference substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

ENFORCEMENT

Senate bill

Section 306 provided for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for a criminal penalty of not more than $5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than $2,500 for each day of each violation of any order or regulation issue pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than $50,000 or imprisoned not more than six months, or both.

House amendment

Section III provided for fines up to $5,000 for each willful criminal violation of the Act, and civil penalties up to $2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

Conference substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

USE OF FEDERAL FACILITIES

Senate bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

House amendment

No provision.

Conference substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tankers, largely left over from World War II could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

Senate bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superseded by it.

House amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

Conference substitute

Subsection (a) of section 122 of the conference substitute is the same as the House amendment except that the Administrator may only delegate any of his functions relative to implementation of energy conservation regulations to officers of a state or locality.

Subsection (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced composition so as to reflect the make up of the community as a whole. This provision is intended to insure that the interests of all classes of users are both repre-

sented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

GRANTS TO STATES

Senate bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

House amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

Conference substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 10 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

REPORTS ON NATIONAL ENERGY RESOURCES

Senate bill

No provision.

House amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and destination of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

Conference substitute

Section 124 of the Conference substitute is the same as the House amendment.

INTRASTATE GAS

Senate bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

House amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

Conference substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

EXPIRATION

Senate bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

House amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

Conference substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

House amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

Conference substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to states under section 123, of $75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, $50,000,000 is authorized to be appropriated for fiscal year 1974 and $75,000,000 is authorized to be appropriated for fiscal year 1975, Also, for the purpose of making payments under grants to States under section 116, $500,000,000 is authorized to be appropriated for fiscal year 1974.

SEVERABILITY

Senate bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

House amendment

No provision.

Conference substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

IMPORTATION OF LIQUEFIED NATURAL GAS

Senate bill

No provision.

House amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquefied natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

Conference substitute

The Senate recedes.

PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

Senate bill

No provision.

House amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

Conference report

The House recedes.

NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

Senate bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

House amendment

No provision.

Conference substitute

The Senate recedes.

SMALL BUSINESS AND HOMEOWNER ASSISTANCE

Senate bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed $1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

Section 308 would authorize the Federal

Housing Administration and the Small Business Administration to make low interest loans to homeowners and small businesses for the purpose of installing insulation, storm windows, and more efficient heating units. Detailed requirements were set out to express the intent of Congress that small business enterprises should cooperate to the maximum extent possible to achieve the purposes of the Act and their varied needs should be considered by all levels of government in implementing emergency fuel shortage contingency programs. Any controls instituted should be equitably applied to large and small businesses and the unique problems of retailing establishments and small businesses should be considered in implementing the provisions of the Act to avoid discrimination and undue hardship.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded from the provisions of their bill because of a jurisdictional question on the part of the House, the conferees agreed that the provisions of the Senate bill merited implementation by the appropriate agencies. The conferees urge that the Small Business Administration, and the Department of Housing and Urban Development would consider and implement regulations permitting assistance in the form of low interest loans to persons otherwise eligible for such assistance for the purposes of installing energy saving features in homes or places of business.

INTERNATIONAL AGREEMENTS

Senate bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in fossil fuels, to achieve the purposes of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that the energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industrialized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

CONSULTATION WITH CANADA

Senate bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days of enactment.

House amendment

No provision.

Conference substitute

The Senate recedes.

TITLE II.—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SHORT-TERM AND LONG-TERM SUSPENSIONS

SHORT TERM

Senate bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive for suspensions, and no suspension could be granted unless the Administrator of EPA found either (i) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (ii) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

SHORT TERM

House amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

LONG TERM

Senate bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel, and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source or a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110(f) of the Act would be authorized.

LONG TERM

House amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source of a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels, (2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights to sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to

publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed on such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1980, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 60 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

Conference substitute

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term suspension of such limitations. The conference substitute adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to determine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel shortage while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and section 119(b) of section 201 of H.R. 11882 were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which is converted to coal in response to the emergency, the conferees adopted a provision which provides that no fuel or emission limitation (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal. The conference version would prohibit the application of such fuel or emission limitations to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such limitation to such source could continue until as late as January 1, 1979. The prohibition would only apply if the source were placed after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable plan no later than January 1, 1979, and must provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in this section is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended is that some violation of the national primary ambient air quality standards can be permitted so long as any of the public would not be exposed to significant health risks.

The timetable for compliance which must be included in the schedule will specify a means of compliance. If the source chooses to utilize low sulfur coal or coal by-products, so that the standards will be met without use of continuous emission reduction equipment the schedule must provide for compliance as expeditiously as practicable but no later than January 1, 1979. If the source elects to use fuel which will require the use of permanent emission reduction equipment, the schedule must provide that such equipment will be purchased, installed, tested, adjusted and in operation in time to permit compliance no later than January 1, 1979. It is the intent of the conferees that when the source selects coal which will require the use of continuous emission reduction equipment, the source will have as much time as necessary to install the equipment and achieve compliance in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems or causing unacceptable disruption in energy production capacity.

In addition, the conference committee believes that sources which intend to rely on using coal that will meet applicable requirements without reliance on continuous emission reduction systems should enter into the necessary long-term supply contracts as soon as possible to assure opening new mines. It is expected that the Administrator would include, but would not be limited to, the following requirements in such schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has pollutant characteristics which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining fuels or system may occur at approximately the same time for more than one source which may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining fuels or equipment to insure availability of supplies of such fuels or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to petroleum products or natural gas. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations by January 1, 1979 can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil remain subject to compliance schedules which were applicable prior to the temporary suspension.

This conference bill does provide for two exceptions to the prohibition on enforcing fuel or emission limitations. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, if practicable, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The conference bill makes explicit that the period of inapplicability under section 119(b) of State implementation plan requirements may be extended for one year under the procedures of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110(f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The right to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. A source should be regarded as having begun a coal conversion if it has made significant efforts to obtain an adequate supply of coal to justify conversion, such as having solicited bids for an adequate coal supply. The Administrator would have to determine whether any such efforts were made in good faith as part of a determination by the source owner or operator to convert to coal in the face of anticipated short falls in its supply of petroleum or natural gas.

The conference bill includes the House amendment provision which authorizes the Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

STUDY AND REPORTS

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

FUEL EXCHANGE AUTHORITY

House amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of section 205.

Section 19(c) of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emissions reduction system so that they could be routed to users in regions with the most severe air pollution.

Senate bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction system first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference substitute

In order to assure the Administrator of the Environmental Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Agency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEA and EPA Administrators will facilitate interagency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEA Administrator for the duration of the emergency and the FEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

REVISIONS OF IMPLEMENTATION PLANS

Senate bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State im-

plementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House amendment

The House amendment contained a similar provision.

Conference substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 106 of the Energy Emergency Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standards could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States sufficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

TRANSPORTATION CONTROL PLANS

Senate bill

The Senate bill contained no provision relating to transportation control plans.

House amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate committees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

Conference substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportion control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as to their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 19, 1973.

Senator JENNINGS RANDOLPH,
Chairman, Senate Committee on Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to re-affirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an alternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans promulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures.

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,

JOHN R. QUARLES, Jr.,
Deputy Administrator.

U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 20, 1973.

Hon. PAUL G. ROGERS,
House of Representatives, Washington, D.C.

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,

JOHN R. QUARLES, Jr.,
Deputy Administrator.

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be permitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to

review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose, transportation control plans.

AUTO EMISSIONS

Senate bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

House amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

Conference substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202(b)(5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Levanthall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Levanthall pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al.* v. *Ruckelshaus,* 478 F.2d 615, 633–634 (February 20, 1973). If the Administrator is asked to authorize a suspension for HC and CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emissions.

REPORT LANGUAGE: FUEL ECONOMY STUDY

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

TITLE III—REPORTS AND STUDIES

Senate bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremental energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health affects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204(a) of the Act. The sum of $5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

House amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be

submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201–205 of this title.

(Additional language to come.)

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was $2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resources recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users of urban mass transportation systems.

Section 206(d) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307 (a) powers.

Conference substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The details of this plan will be subject to Congressional approval, prior to implementation. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal vehicles can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce.

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From Section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

CALL OF THE ROLL

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 called the roll, and the following Senators answered to their names:

[No. 614 Leg.]

Allen	Griffin	Mansfield
Baker	Hansen	Mathias
Beall	Jackson	McIntyre
Byrd, Robert C.	Johnston	Metcalf
Chiles	Kennedy	Nelson
Fannin	Long	Pell
Fulbright	Magnuson	Randolph

The PRESIDING OFFICER (Mr. CHILES). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Abourezk	Haskell	Roth
Bartlett	Hathaway	Schweiker
Bayh	Hruska	Scott, Hugh
Bible	Huddleston	Scott,
Biden	Hughes	William L.
Burdick	Humphrey	Sparkman
Byrd,	Inouye	Stennis
Harry F., Jr.	McClellan	Stevens
Case	McGee	Stevenson
Clark	McGovern	Symington
Cook	Montoya	Thurmond
Cranston	Muskie	Tunney
Curtis	Nunn	Weicker
Dole	Packwood	Williams
Hart	Proxmire	Young
Hartke	Ribicoff	

The PRESIDING OFFICER (Mr. BIDEN). A quorum is present.

Mr. MANSFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The conference report on the energy bill, S. 2589.

Mr. MANSFIELD. Mr. President, has there been any debate on it up to this time?

The PRESIDING OFFICER. No, not up to this time.

Mr. MANSFIELD. Mr. President, I should like to suggest the absence of a quorum for not to exceed 5 minutes.

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.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination on the Executive Calendar under "New Report."

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

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Charles D. Loos, of Indiana, to U.S. marshal for the southern district of Indiana.

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

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

PRINTING OF REPUBLICAN REPORT AS A SENATE DOCUMENT

Mr. HUGH SCOTT. Mr. President, I ask unanimous consent that the minority leader's report and relevant information, which I submitted yesterday, be printed as a Senate document.

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

ORDER FOR ADJOURNMENT FROM SATURDAY TO MONDAY, DECEMBER 24, 1973, AT 9 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns tomorrow it stand in adjournment until the hour of 9 a.m. on Monday next.

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

QUORUM CALL

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.

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 amendments of the Senate to the amendment of the House to the bill (S. 11510) to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

The message also announced that the House had passed the following bill in which it requests the concurrence of the Senate:

H.R. 15110. An act to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions.

HOUSE BILL REFERRED

The bill (H.R. 15110) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions was read twice by its title and referred to the Committee on Government Operations.

ENERGY EMERGENCY ACT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

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

Mr. JACKSON. I yield.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that during consideration of the Energy Act conference report, S. 2589, Barry Meyer, Philip Cummings, Leon Billings, Richard Grundy, Philip McGance, Richard Hellman, Bailey Guard, Karl Braithwaite, and Richard Herod be granted the privilege of the floor.

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

Mr. BIBLE. Mr. President, I ask unanimous consent that during the deliberations on this measure Owen Malone be granted the privilege of the floor.

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

Mr. FANNIN. Mr. President, I ask unanimous consent that during the debate on this matter Harrison Loesch and David Stang be permitted the privilege of the floor.

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

Mr. FANNIN. I also make the same request with respect to Ron Frank and David Russell.

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

Mr. JACKSON. Mr. President, I ask unanimous consent that during the consideration of this matter Grenville Garside, William Van Ness, Lucille Langois, James Barnes, Daniel Dreyfus, Mike Harvey, Lorraine Maestres, and Jerry Verkler be granted the privilege of the floor.

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

Mr. JACKSON. Mr. President, this legislation, combined with the Emergency Petroleum Allocation Act of 1973, gives the executive branch full authority to deal with the most serious peacetime fuel shortages in our history.

The administration has now estimated that the shortages caused by the Arab embargo, when added to existing shortages, will result in an average shortage of 3.27 million barrels per day or 16.4 percent of unconstrained demand. Averages of course are misleading. As my colleagues from New England are well aware, the shortages in some regions will be far more serious than these figures suggest. Even if some "leakage" in the Arab embargo occurs, there is no way to avoid a substantial fuel shortage in 1974.

These shortages, Mr. President, can be managed. Skillful use of the rationing, conservation and allocation tools provided by Congress can minimize the personal hardships and the economic impact caused by fuel shortages. But action to deal with this national problem must be timely in order to be effective. It is still not too late for the administration to move decisively on a broad range of action to reduce energy demand and assure that available fuel supplies are used most effectively.

S. 2589 is based on the premise that a nationwide energy emergency now exists and includes a congressional finding to that effect. When I first introduced the bill on October 18, 1973, it was already clear that severe fuel shortages were in prospect. It was equally clear that the administration was not only unprepared but also lacked authority to deal with such shortages. Events since then have confirmed the need for new authority, particularly with respect to energy rationing and conservation programs.

While the administration did not formally submit legislative requests for such authority, it has from the outset conceded the need for new authority and has worked closely with Congress in developing energy legislation. On the Senate side, the Interior Committee held two closed hearings on this subject with Governor Love and other officials and administration representatives also participated in public markup sessions of the bill.

The legislation was approved by a conference chaired by the distinguished chairman of the House Interstate and Foreign Commerce Committee, Representative HARLEY STAGGERS of West Virginia. The country is in his debt for the wise and able leadership he has provided in guiding this bill, and the Emergency

Petroleum Allocation Act, through the Congress.

As approved by the conference, the National Energy Emergency Act authorizes the President to:

First, implement fuel rationing programs without further congressional action if the President finds that other methods to limit energy demand will not achieve the objectives of the Energy Emergency and Allocation Acts.

Second, implement energy conservation plans to reduce energy demand. All such plans must be submitted to Congress when promulgated. Plans to be implemented prior to March 1, 1974, shall take effect pursuant to their provisions and remain in effect unless disapproved by either House or Senate without a period of 15 legislative days after submission. Conservation plans proposed for implementation after March 1, 1974, and prior to July 1, 1974, must be submitted to Congress for a period of 15 legislative days before they take effect. Either the House or the Senate could disapprove the plans during this period.

Conservation plans proposed after July 1, 1974, must be submitted in the form of legislation and would be subject to approval by act of Congress.

Mr. President, the procedure whereby Congress has the right to disapprove conservation plans proposed by the executive branch has been much discussed in recent days and deserves special comment.

First, it is worth noting that this concept was incorporated in section 301 of the bill as it was reported to the Senate 5 weeks ago. It was not a last minute improvisation.

Second, the proposed right of disapproval gives the Congress an appropriate role and responsibility in the development of conservation programs which will affect the lives of every American. I am convinced that Congress should share this responsibility with the executive branch. The very existence of the right of disapproval will I believe, lead to greater consultation with Congress and the development of better, more widely accepted conservation programs.

Finally, let me emphasize that the conference agreement gives the executive branch the necessary authority to adopt stringent conservation programs as soon as the Energy Emergency Act is signed into law by the President. As the conferees have made clear, we believe that strong conservation measures are in order and that the act before the Senate today makes possible the immediate implementation of such measures without further delay.

Any conservation measures implemented pursuant to this act in the critical first week of 1974 will have the full force and effect of law until Congress exercises the right of disapproval, and injunctive powers—as well as civil and criminal penalties—are provided to assure adequate tools for enforcement.

While the necessary enforcement authority has been provided, there can be no doubt that the effectiveness of conservation and rationing programs will depend ultimately on the degree of public acceptance of such programs and the need for their implementation. Public acceptance will, in turn, depend on a steady flow of reliable information about the impact of fuel shortages, the kind of information we are only beginning to receive.

I believe the public will respond if the people are given the facts, if they are convinced that hardships will be equally shared and if their leaders show by word and deed that they are not just dictating but participating in a national energy conservation effort.

REQUIREMENT OF FAIRNESS AND EQUITY

The conferees have made clear that Congress will expect fairness and equity in rationing, conservation, and allocation programs. The act before the Senate requires that allocation of petroleum products and electrical energy be equitable and not unreasonably discriminate among classes of users. It also provides that restrictions on energy use be fair and not impose a disportionate share of the burden of such restrictions on any specific business, industry, or commercial enterprise. I am convinced that these precepts must be followed if the programs promulgated under this act and the Allocation Act are to succeed.

In accepting the House approach to create a Federal Energy Emergency Administration, the conferees recognized that time was too short in this session to complete action on the more detailed legislation to create a Federal Energy Administration passed by the Senate Wednesday. The language approved by the conferees simply creates an Administration, which will remain in existence until May 15, 1975 unless superseded before then, headed by an Administrator subject to Senate confirmation and authorizes appropriations in the amount of $75 million for the current fiscal year to run it. The adoption of this provision in no way precludes further congressional action on this subject, and I hope that the House will move promptly to consider the Senate's bill in January.

The conferees recognized, as did both House and Senate, that State and local governments must play a critical role in administering programs under this act and the Allocation Act and authorized appropriations of $50 million for the current fiscal year for grants to State and local governments for this purpose.

ECONOMIC IMPACT STUDIES

Mr. President, it is obvious that any rationing or conservation plans implemented under this act will have a significant economic impact. I am, therefore, pleased that the conferees accepted my proposal to require careful economic analysis of proposed actions and programs wherever possible. While economic impact studies were required in the original Senate bill, the conferees approved broader provisions similar to those adopted by the Senate Wednesday in the Federal Energy Administration Act.

In addition to the analysis of the impact of proposed actions, the Administrator is also required to monitor the impact of the shortages and emergency measures on the economy and on employment and report to Congress on this subject. He must also make recommendations about the need for additional employment and economic assistance.

The conferees did authorize a $500 million program for the current fiscal year for assistance to those who are unemployed because of the administration or enforcement of this act. But we recognized that broader programs of assistance may be necessary as the fuel situation worsens in 1974.

WINDFALL PROFITS

The conferees approved an important provision, which would be effective upon enactment of the act, requiring that the President exercise his authority under the Economic Stabilization Act and the Emergency Petroleum Allocation Act to specify prices for crude oil, refined petroleum products, and residual fuel oil which avoid windfall profits by sellers. The vigorous exercise of this authority is essential, I believe, to protect the American consumer in a period of substantial fuel shortages.

The conferees have retained the provision of the House bill dealing with so-called windfall profits. These provisions authorize petitions by interested persons to the Renegotiation Board to determine if specific price levels are permitting windfall profits on sales of crude oil, refined petroleum products, and residual fuel oil. The Board could set lower prices to bar windfall profits in appropriate cases.

However, the conferees also agreed that the windfall profit provision would become effective January 1, 1975, and would apply to profits attributed to prices in effect after December 31, 1973. In the event that the Congress legislates on this subject during 1974, it can of course amend or supersede these provisions.

One problem directly related to the adequacy of energy supplies is the shortage of materials and equipment essential to energy production. Such shortages include critical items like roof bolts for coal mines and pipe for oil wells. The conferees adopted provisions requiring the Administrator to prepare a contingency plan for the allocation of supplies of materials and equipment essential to energy production. Any such plan would, prior to its implementation, be submitted to Congress in accordance with the procedures for submitting conservation plans.

The conferees have also approved language authorizing the Administrator to restrict exports of coal, petroleum products and petrochemical feedstocks and requiring him to do so if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment. The Secretary of Commerce is also authorized to restrict such exports under the Export Administration Act.

CLEAN AIR ACT CHANGES

The differences between the Clean Air Act provisions of the House and Senate bills were worked out in a separate and concurrent conference composed of Senators MUSKIE, RANDOLPH, and BAKER and Congressmen ROGERS and HASTINGS. The product of their intensive efforts was ratified by the conferees unanimously.

The agreement with respect to automobile emission control provisions incorporates the essential ingredients of S. 2772, the legislation on this subject passed by the Senate last week. Briefly, the agreement reached was to freeze by statute automobile emission standards for hydrocarbons and carbon monoxides for 1 year at the interim 1975 Federal standards adopted by the EPA. Thus the statutory standards contained in the Clean Air Amendments of 1970 would now apply to model year 1977. The overall effect of this amendment is to grant 1 additional year for compliance with statutory hydrocarbon and carbon monoxides standards beyond the latest deadline provided for in the 1970 amendments.

Similar modifications were made in the Federal standards for nitrogen oxides. The 1975 standard was frozen for model year 1976 and a new standard established for 1977. The previous statutory standards contained in the 1970 amendments then would apply nationwide in 1978.

Consistent with previous legislation in this area special provision is made for the unique problems in California. Although the existing 1975 California standards for hydrocarbon and carbon monoxides are maintained for model year 1976, authority also is retained allowing California to set lower standards covering later model years.

Under the conference agreement, EPA is required to submit to the Congress by May 1, 1974, a study on the necessity for and impact of parking surcharges, management of parking supply and preferential bus/carpool lane regulations as features of transportation controls required to achieve and maintain primary air quality standards.

With respect to stationary sources and the conversion of coal, the EPA Administrator would be empowered to suspend, on a short-term basis, applicable clean air requirements through November 1974. Such suspensions of applicable emission limitations would be granted only where an adequate supply of environmentally acceptable fuel is not available. This provision is consistent with both House and Senate measures as passed.

Authority also is provided for modification of existing State plans and implementation plans under the clean air amendments. Extensions of time schedules for compliance with applicable standards would be restricted to actions taken in connection with the energy emergency.

The FEA Administrator also would be empowered to require the conversion of major energy facilities to coal from present sources of petroleum and natural gas, except where the use of coal is likely to materially contribute to significant risks to public health.

Such extensions can continue until January 1, 1979. However, wherever an ordered conversion to coal in response to the energy crisis is determined by the Administrator to endanger a primary ambient air quality standard the Administrator is specifically directed to review and modify within 1 year applicable implementation plans. Such revisions of applicable plans are to include the reasonable and practicable measures necessary to minimize adverse effects on air quality.

Such revisions of implementation plans also are to be undertaken on a source by source basis before November 1, 1974, and are to require compliance with applicable emission standards no later than January 1, 1979. During this period a converted plant may employ a variety of techniques in order to achieve compliance with emission limitations, including continuous emission reduction systems, low sulfur coal or low sulfur coal byproducts. Any revision of a compliance schedule must include specified increments of progress including a schedule for instituting the required coal contracts. If the means of compliance is low sulfur coal or coal byproducts, the schedule must require delivery as soon as practicable but not later than January 1, 1979. These deadlines were selected to reflect time necessary to open new mines or develop and install technology such as coal gasification.

Where an orderly development of pollution control technologies is needed in order to insure compliance with a modified implementation plan, the Administrator is empowered to establish dates for the initiation of construction of such facilities or appropriate coal conversion technologies.

Mr. President, the revisions in the Clean Air Act authority, coupled with authority for allocation, rationing, and conservation programs, will enable the administration to deal efficiently with the fuel shortages of the next few months. These emergency measures will bridge this interim period and give Congress and the executive branch the opportunity to consider definitive, longer term measures in the energy field. I urge that the Senate adopt the conference report on the Energy Emergency Act.

Mr. LONG. Mr. President, will the Senator yield for a question?

Mr. JACKSON. I yield.

Mr. LONG. Why is it that those of us who serve on the committees that have jurisdiction over taxes and revenue measures have not been accorded the courtesy, or at least the opportunity, to see or study or even conduct any hearing whatever on this type of proposal? Is it that those committees have fallen into such low esteem now that they are regarded as being unworthy to consider revenue measures any longer?

Mr. JACKSON. I will say to my good friend from Louisiana that this section dealing with pricing and windfall profits originated in the House. To my knowledge, the committee that has original jurisdiction, under the Constitution, is the Ways and Means Committee, and to my further knowledge they did nothing about it. We had before us proposals which are not taxing measures; they involve the extended authority to the Renegotiation Board. Under the House rules, and I believe the Senate rules to a certain extent, the authority in renegotiation areas is within the jurisdiction of the Banking, Housing and Urban Affairs Committee. This was not in the Senate bill, as the Senator knows.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. JACKSON. I yield

Mr. LONG. In view of the fact that we are being asked to vote a tax which, as I understand, is supposed to be in effect December a year from now, retroactive back to January, and assuming that we wish to collect that tax, I for one see no reason why we cannot take enough time to consider it and to see whether this is a better tax than the one proposed by the President, for example, and to hold hearings. Have any hearings been held on this tax proposal?

Mr. JACKSON. Mr. President, first of all I do not want to get into semantics. However, it is not a tax. It is authority to renegotiate.

Mr. LONG. Mr. President, may I say that the——

Mr. JACKSON. The Senate conferees had in mind the problem posed by the Senator from Louisiana. The able Senator from Maine (Mr. MUSKIE) offered the amendment, in which we all agreed on the Senate side, that the effective date should be January 1, 1975, as it relates to the renegotiation process. This gives the House and Senate full opportunity to take action on it.

Mr. LONG. The renegotiation bill is also a revenue bill. Is it not?

Mr. JACKSON. I think the indirect effect is exactly that. I am merely pointing out that technically it is an extension of the authority to the Renegotiation Board to renegotiate profits.

I am not arguing what the result is. I am just pointing out that that is the way the House handled it. I think that my friend, the Senator from Louisiana, will agree that the House Ways and Means Committee does not take umbrage in this matter at all. Apparently they went along. I went through the record carefully. However, the House approved the specific action taken by a fairly substantial vote as it relates to pricing and as it relates to windfall profits.

Mr. LONG. If the Ways and Means Committee does not want to do its job in the House of Representatives, does that necessarily show that the Senate Finance Committee is abrogating its responsibility in the Senate?

Mr. JACKSON. No. However, I would emphasize again that under the Constitution, of course, tax and revenue matters must originate in the House of Representatives.

I do not care whether one calls this a taxing or a revenue measure or something else. That would have to originate in the House. The Constitution does not have anything to say about it having to originate in the Ways and Means Committee.

Mr. LONG. Mr. President, as a matter of fact, the Constitution says that revenue matters must originate in the House. And that is the way this has been construed up to this point. So the House has usually the consideration of these matters, it being a revenue bill when it is introduced. That is why those of us in the Senate who would like to amend a House passed bill to make a revenue bill

out of it have been constantly frustrated by the fact that the House would not consider it when we would try to send them a Senate bill that was a revenue bill.

In this case we have before us a revenue bill that originated here. The measure originated in the Senate. The House amended it with an amendment of a revenue nature. And when a measure originates in the Senate, which is now a revenue measure, in my judgment, that is clearly contrary to the Constitution which I swore to uphold when I took my oath of office five times here. Revenue matters must originate in the House. It must be a revenue measure when it was in issue. And frankly, if one looks at the reason why it is felt that revenue measures must originate in the House, particularly in the experience of State bodies as well as the Congress, it was that the people who were going to be taxed ought to be given a chance to know about it so that they do not have to watch both bodies at once, so that a person does not have to be in both Houses at the same time to avoid getting the bum's rush on a tax matter.

He merely has to watch the House and he can see it coming. If the House initiates it without giving hearings or any right to be heard, he then has an opportunity to be heard in the Senate. That is why the Founding Fathers created the Senate.

Here we see a tax measure of very substantial consequence. I am not here to debate the merits. All I say is that this is an important matter that was initiated in the conference report as far as the Senate is concerned, not in the House where tax bills ought to be originated. This was originated in the Senate. It went to the House. Then it comes back with a House amendment in the conference report where, if those who want to use the bums rush on people insist on it, they can limit Senators to just two speeches on the conference report and insist that the conference report be voted on as a priority matter with no amendments to be considered, mind you. If those who initiated this type of approach wanted to do it in this fashion, they could deny to the Senators who do not agree with them any chance to amend it so as to make it more reasonable, to take into consideration the facts of life, or anything of that sort.

Is the Senator going to tell me that the committee having jurisdiction will not even receive the courtesy of being permitted to have hearings on the matter?

Mr. JACKSON. Mr. President, I shall make this statement and I shall conclude on this point. I will repeat what I said.

First, it is not a revenue measure. It is not a tax measure. I will read specifically from the act. However, even if it were a revenue measure, I point out that the Constitution provides that revenue measures should originate in the House. It does not say which committee should handle it. Obviously the Ways and Means Committee was not in existence when the Founding Fathers put that provision in the Constitution.

Mr. LONG. Mr. President, will the Senator yield further?

Mr. JACKSON. I yield.

Mr. LONG. Mr. President, do the Senate rules support what the Senator is saying?

Mr. JACKSON. I am merely saying what the Constitution says and what it does not say.

The House follows its own rules. Obviously, if this is in violation of the House rule, the House makes that decision, and they can follow their own rules. But first of all, I want to say that even if it were a revenue measure, the House originated it and that is what the Constitution requires.

Mr. LONG. If the House originated it, why does it bear an "S" number, S. 2589? What is the "S" doing on this if this is a House-originated measure?

Mr. JACKSON. This is part of the "S" bill originating in the House. That is what the Constitution requires. And it has complied with the requirement.

Mr. President, I am not trying to nitpick. However, the facts are that it is not a tax.

I read specifically from the statute:

(B) Upon petition of any interested person and notwithstanding any proceeding or determination under subparagraph (A), the Board may determine whether the price charged by a particular seller of any petroleum product permitted such seller to receive windfall profits. If, on the basis of such petition, the Board has reason to believe that such price has permitted such seller to receive windfall profits, it may order such seller to take such actions (including the escrowing of funds) as it may deem appropriate to assure that sufficient funds will be available for the refund of windfall profits in the event there is a final determination by the Board under this subparagraph that such seller has received windfall profits. Prior to a final determination under this subparagraph, such seller shall be afforded a hearing in accordance with the procedures required by section 554 of title 5, United States Code. Upon a final determination of the Board that such price permitted such seller to receive windfall profits, the Board shall order such seller to refund an amount equal to such windfall profits to the persons who have purchased from such seller at prices which resulted in such windfall profits.

Mr. President, the point I want to make is that it is a refund to the people who have made the purchases. There is no tax.

Mr. LONG. Have you read the whole section?

Mr. JACKSON. Let me just finish.

Mr. LONG. Have you read the rest of it? That is not the end of the subsection.

Mr. JACKSON. No, that is not the end of the subsection. I will read the rest of it:

If such persons are not reasonably ascertainable, the Board shall order the sellers for the purpose of refunding such profits, to reduce the price for future sales, to create a fund against which previous purchasers of such item may file a claim under rules which shall be prescribed by the Board, or to take such other action as the Board may deem appropriate.

Mr. President, the point I want to make is that there are no proceeds here which go to the U.S. Treasury. On the contrary, it goes to the people affected.

Now let me read——

Mr. LONG. Well, now, who is going to collect the money and pay it out to the people whose identity is unknown?

Mr. JACKSON. The Renegotiation Board handles this through the escrow procedure that I have just indicated.

Mr. LONG. Now, Senator, does your committee have jurisdiction over the Renegotiation Board?

Mr. JACKSON. No, we do not have jurisdiction over the Renegotiation Board. Of course we do not.

Mr. LONG. Will you tell us who does?

Mr. JACKSON. Frankly, I believe the Renegotiation Board, in the House, comes under Banking and Currency. In the Senate, members of the Renegotiation Board are confirmed by the Senate Finance Committee.

Mr. LONG. My impression is that—if that is the committee that handles the renegotiation action, can the Senator tell me whether there would be any difference as far as the jurisdiction of the Renegotiation Act is concerned?

Mr. JACKSON. Well, Mr. President, I am not going into a long discussion here about committee jurisdiction. I am merely reciting the language from the statute, and I want to read, finally, the report language which the House submitted when the bill was before the House, dealing with this particular section. I read from page 36 of the House report:

SECTION 117.—RESTRICTIONS ON WINDFALL PROFITS.— This section amends the Emergency Petroleum Allocation Act by adding a new subsection (k), which provides for restrictions on windfall profits. Under its terms, interested persons who believe established prices allow windfall profits may petition the Renegotiation Board. If, after reviewing testimony and evidence, the Board finds that windfall profits are obtained, it shall establish a new sales price which prevents such profits, or provide appropriate refunds, in the case of individual firms found to receive windfall profits under established prices.

Mr. President, I think this adequately explains the situation here as it relates to both the pricing and the windfall profits section. May I further emphasize, as I did earlier, that the windfall profits section does not take effect until January 1, 1975, and it shall apply to profits attributable to any price specified under any of the authorities referred to in paragraph 1 of the subsection—for crude oil, residual crude oil, and refined petroleum products—in effect after December 30, 1973, as I indicated in my earlier statement.

I believe it is understood now that the measure is, in my judgment, not a tax or a revenue measure. Mr. President, if it is to be a tax or revenue measure, the revenue must go into the Treasury of the United States.

It is a measure, I think, to protect the public against price gouging and profiteering in a time of shortages. I do not think the American people, very candidly, are going to tolerate any kind of profiteering or any kind of price gouging in which a certain few are going to be able to take advantage of the public.

I want to be fair and equitable, and just, and see to it that there is a proper profit allowance to provide the incentives

and do the things that must be done. I say to my colleagues in the Senate right here and now that unless we make some rational moves, we are going to see, in 1974, the most punitive legislation ever adopted by Congress affecting any one industry.

Mr. MUSKIE. Mr. President, Congress, in a very short time, has produced legislation that directly addresses the immediate energy crisis facing the country. The agreement reached last night in the House-Senate conference committee gives the President and his Energy Administrator, Mr. Simon, the authority to move immediately with a firm hand to put in place the programs needed to protect the country from the fuel shortages that are now appearing around the country.

Mr. Simon has indicated that he places high hopes in an energy conservation program of substantial dimensions to save scarce fuel. This legislation will give him authority to mandate such a program.

He has indicated that programs to restrict gasoline sales and make substantial reductions in lighting for business, Government and commercial operations will be the heart of this program. This legislation is a quick yet careful response to give the administration the tools necessary to carry out such a program.

The conference agreement also directs that actions taken under the authority of this bill will be fair and equitable. The legislation gives the administration the authority to stop the export of products and materials that are vital to the production of energy.

The conference report on the Energy Emergency Act contains a compromise I proposed to preserve the section of the bill controlling windfall profits of the energy companies. Many questions were raised about problems in the mechanisms used to implement such a proposal. In order to keep the idea alive, I proposed language that would allow the excess profits section, adopted by the other body, to go into effect January 1, 1975. But it would cover excess profits earned in 1974. Thus, the delay will not exempt excess energy company profits next year.

However, we felt that the question of dealing with excess profits was by its nature complicated and sensitive. At this point, we do not know how serious the problem will be, and there has been inadequate time to consider what steps might be most effective in dealing with these profits. The provisions can be considered an incentive for the appropriate committees of Congress to begin their deliberations on this issue early next year.

This serves notice that price gouging and windfall profits will not be allowed, but gives the Congress, and the appropriate tax committees in Congress, time to formulate the best possible approach. If they devise no better language, then the provision in this bill will automatically take effect.

Mr. President, the problem of excess profits is one which rightfully angers and frustrates average Americans. They see dramatic increases in oil company profits, and wonder if the sacrifice and suffering their Government asks of them is no more than a hoax designed to swell the coffers of the industry. If we demand sacrifice from our people, we must also demand a reasonable profit structure from the energy industry.

Another important energy provision will give the administration the power to order substantial conversion from the burning of oil to the burning of coal in places where such a switch is possible. This will allow scarce oil to be released for areas of critical concern—areas such as Maine and the rest of New England, where 90 percent of the heat for the winter comes from oil. For the rest of the country, that figure is substantially lower—approximately 50 percent. So this conversion will give areas of the country that are very dependent upon oil a better prospect of receiving those oil supplies.

The country needs swift and decisive action on the energy crisis. The Congress has acted rapidly in setting up the organization and policy to carry out that action. The ball is now in the court of the executive branch.

MINIMIZING ENVIRONMENTAL EFFECTS OF ENERGY ACTIONS

The importance of this energy legislation and the unique interrelationship between energy and virtually all other aspects of our lives made possible its use as a vehicle for a significant number of amendments not necessarily related to the energy emergency.

For some, the emergency energy legislation became a cover for immoderate attacks on environmental goals. The conference has struck down most of these. These goals have been carefully established in acts of Congress over many years. One of the areas in which the other body proposed sweeping change was the Clean Air Act. Had the House amendments survived the conference, the Clean Air Act would be rhetoric rather than substance. I am pleased to announce to my colleagues today that that is not in fact the case.

The Senate, in order to preserve the structure and the substance of the Clean Air Act, had to make one significant concession. Your conferees had to accept the application of a new standard for the emissions of oxides of nitrogen polluants for 1977 automobiles.

On Monday of this week I told this body that the Subcommittee on Air and Water Pollution would consider the issue of oxides of nitrogen emissions in hearings early next year. I told this body that we would weigh carefully a recommendation to the Congress by the Environmental Protection Agency Administrator, Russell Train, to raise the nearterm oxides of nitrogen emission standards to 2.0 grams per mile. The House bill extended the oxides of nitrogen standard to 2.0 grams per mile for the indefinite future with no authority for the Administrator to reduce it.

The price we paid to protect important clean air provisions of the emergency energy legislation was a 1-year extension on 2.0 NOX. I must say this will remove some pressure early next year to act precipitously on the current standard. There can be little argument now against awaiting the completion of the National Academy of Sciences' review before we take any further action on future requirements for this significant pollutant.

At the insistence of the Senate conferees, the Members eliminated the extra year's freeze for auto emission standards contained in the House bill, as well as the potential for five additional 1-year freezes at the Administrator's discretion. The House ban on the use of special bus/carpool lanes was dropped, as was the 2-year delay in transportation control plans.

The conference did agree to suspend EPA's authority to impose a parking surcharge. While I recognize that a surcharge may be very useful in stimulating mass transit, substantial questions exist about EPA's authority to impose such a tax. It was not directly anticipated during passage of the Clean Air Act Amendments of 1970. I believe it appropriate that we continue to study this thoroughly through the public hearings begun earlier this year by my subcommittee.

The House ban on the use of parking management schemes has been replaced by assurance from EPA that such actions will be suspended until January 1, 1975, so that these plans might be thoroughly studied.

We have eliminated provisions that would arbitrarily deny authorized tools that may be needed to reach clean air standards designed to protect the public health. We will now have the opportunity to weigh the merits of these strategies in orderly legislative hearings.

This was an important step in preserving public participation in decisions regarding key features of the Clean Air Act.

STATIONARY SOURCES

The Senate, in its version, insisted that any changes made in the regulation of stationary sources be kept related to the Emergency Energy Act. Many House provisions that dealt broadly with the Clean Air Act have been eliminated.

Provisions exempting many fuel burning stationary sources from emission limitations have been dropped.

The House legislation attempted to sanction an approach to pollution control which was not anticipated under the Clean Air Act. This is the use of intermittent control measures for cleaning up pollution. This system allows companies to withhold pollution temporarily, and then when weather conditions are favorable the smoke and soot is dumped into the air. This is not an adequate alternative to purchasing equipment or fuel or fuel byproducts that will provide for continuous and constant emission reduction and the conferees rejected it.

One of the most controversial provisions in the House legislation was an attempt to encourage a conversion of power plants to coal without also requiring that such plants comply fully with their current Clean Air Act requirements. If left standing, this provision would have created the potential for such converted companies to consistently ignore air quality standards—standards that are

based on the need to protect, at a bare minimum, the health of our population.

At the same time, the House provisions raised doubts about the right of a State to set higher emission limitations than are established under Federal standards.

Instead of these provisions, the conferees established a framework that will preserve the Clean Air Act while providing needed energy by allowing necessary short- and long-term switches to available fuels. The conference proposal permits the EPA Administrator to suspend Federal, State, and local clean air requirements through November 1, 1974. Short-term suspensions would be granted if an adequate supply of conforming fuel is not available.

A suspension can continue until January 1, 1979, with a potential single 1-year extension provided for plants which convert to coal if the plants submit—and obtain approval of—compliance schedules to achieve Clean Air Act standards by 1979. EPA can prohibit the use of coal where it is likely to materially contribute to significant risk to public health.

A converted plant can use continuous emission reduction systems, low-sulfur coal or low-sulfur coal byproducts to achieve such limits. A new compliance schedule must mandate steady progress, but compliance with the emission limits established for that source under existing implementation plans must be achieved not later than January 1, 1979.

Binding contracts must be entered into for coal and pollution control equipment as a part of a new compliance schedule.

I am fully aware that problems may exist in some of the changes we have made in the law. But I believe those interested in these matters should also recognize that tremendous problems have also been eliminated by insistence of the Senate conferees. We now must monitor the actions that result from this law. The entire Clean Air Act will be reviewed and reauthorized next year. I believe we have now protected that orderly review.

In other respects, Mr. President, the conference agreement emerges much as the Senate had hoped and if anything perhaps narrower than some had construed the Senate bill. Those aspects of the conference agreement which amend the Clean Air Act are restricted to actions arising out of the energy emergency. We believe we have given the Administrator of the Environmental Protection Agency the needed authority to respond to the energy emergency without giving the opponents of the environmental programs the mechanisms to gut the Clean Air Act.

Mr. President, I would like to express my appreciation to the Senator from Washington (Mr. JACKSON) and my fellow conferees for their confidence in Senate Public Works Committee conferees on the issue of the Clean Air Act. At the time the Senate enacted this legislation, the Senator from Washington committed himself to support of the agreements which the Committee on Public Works conferees were able to negotiate. We were given sufficient time, to the extent that there was sufficient time at all on this legislation, to work out our differences with our counterparts on the House Interstate and Foreign Commerce Committee. The conferees supported this agreement with unanimity.

I would like to say a word also about people with whom we negotiated this agreement on the House side. Congressman PAUL ROGERS, chairman of the House Subcommittee on Public Health and the Environment, and his ranking member, Congressman JIM HASTINGS of New York, recognized the need to fashion a bill providing emergency powers rather than attempting to deal with large questions surrounding the Clean Air Act. Their cooperation made possible today's agreement. I compliment them for being statesmen of the highest order. I look forward to next year, when the Clean Air Act must be reauthorized, to working with them to improve the processes which we finally approved in the Senate 3 years ago.

We knew on September 22, 1970, that the full implications of the policies we were enacting would be difficult to predict or completely understand.

We knew in 1970 that the Clean Air Act would reshape our lives in many ways, and we knew in 1970 that there would be problems resulting from the act which could not be solved in the administration or in the courts. Next year we will review those questions. We will attempt in a deliberate way to develop more and better tools to improve the quality of the environment.

Mr. President, the committee report on this bill also contains language expressing congressional concern over the very real threat of a cutoff of Canadian oil to the United States. Businesses in my home State and elsewhere along the Canadian border have entered into oil supply contracts from Canadian suppliers. But Canada is experiencing a shortage of its own, and the Canadian Government has adopted a very strict policy toward exports to the United States. In my home State, this policy means the threatened loss of 8,000 jobs by the end of January.

I proposed an amendment in committee, stating:

> Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Wherever possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada.

This amendment was withdrawn after the committee received assurances that this problem is being dealt with on a diplomatic level. The report expresses strong congressional interest in these negotiations, and encourages vigorous use of all diplomatic avenues to resolve the problem.

The first reaction of many in facing the energy crisis has been to suggest degrading the environment as a first course of action. I believe we have been successful in turning back much of that thrust in this legislation. I am not totally satisfied in all respects, but I believe we have struck a compromise that has substantially repaired the public interest.

Conservation of all scarce resources ought to be our first action. Instead, environmental degradation has been the first choice of some. Ironically, this degradation virtually never yields additional energy. I have confidence that the American people will see past any attempt to create an environmental scapegoat in the energy issue. No amount of relaxation of pollution controls will invent new oil or new natural gas. Relaxation will only dangerously delay addressing the real changes we must make to protect our health and our environment.

I have assumed all through my deliberations on this legislation that my colleagues greatly desired an emergency energy bill before the Christmas recess. Based on that assessment, I have agreed to compromises that I might have rejected in a different context. But I believe we have protected basic environmental values. On that basis, and in the belief that energy measures provided in this bill are vital to the country, I recommend that the Senate swiftly approve the bill's passage.

Mr. METCALF. Mr. President, the great Senator from Nebraska, George Norris, was a crusader for a unicameral legislature largely because he recognized that a great deal of significant legislation is written in conference without publicity and away from the observation of the Members of the respective Houses. The spirit of George Norris must be restless today as a result of the occurrences in the recent conference on the so-called energy bill, S. 2589, which is the pending business.

Let me hasten to say that both Senator JACKSON, who was chairman of the Senate conferees, and Congressman STAGGERS, who presided over the conference, were eminently fair and worked with patience and persistence in bringing out a bill that is not only a good compromise between the House and Senate positions but is a bill that will be a useful and effective tool in solving many of the urgent problems presented by the shortages of oil and natural gas as we go into the winter months.

However, it is with respect to an incident that happened in the course of the conference that I wish to comment. Wednesday evening the conference recessed at about 7:30 p.m. to reconvene at 8:15 p.m. When the time arrived for the conferees to continue the discussion, we were informed that Mr. Simon wanted to meet with the conferees. Mr. Simon was late, because of a TV engagement and I certainly do not fault him on that score. His job is to secure public acceptance and cooperation in a most difficult and delicate task of persuading the American people to suffer the sacrifices that are going to be necessary in the days ahead. The meeting was held in a room off the conference committee room and the audience was restricted to the Congressmen who were members of the conference committee. Chairman STAGGERS permitted several witnesses to appear before the conference committee and explain amendments. I agree that such a procedure is appropriate. We cannot have

too much information or explanation especially on consideration of intricate legislation and deliberation over floor amendments that may not have undergone the test of hearings and investigation. But such presentations must be in the open and away from the suspicion that a secret deal is being made in the "other room."

I was not aware of anything that transpired in Mr. Simon's secret meeting that could not have been openly and fairly presented. As a result of the meeting there were modifications in the bill and the ones that were adopted are ones in which I can concur. I am informed—hearsay—that Mr. Simon outlined a program of conservation measures that he proposed to take. No reporter was there, no secretary took them down. However, Senator FANNIN did write the list down in his legible and classic penmanship and made the list available to those of us who did not deign to meet with Mr. Simon in the "other room." The proposals are as follows:

1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.
2. An additional day on which retail gasoline sales may be banned.
3. Maximum speed limit of 55 MPH for inter-city buses and trucks and 50 MPH for automobiles.
4. Ban promotional, display and ornamental lighting by commercial establishments, including advertising identification lighting at times not essential.
5. Reduce fuel for use by general aviation.
6. Ban exterior residential ornamental lighting.
7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments.
8. Promote weatherizing of homes with insulation, weather stripping and storm doors and windows.
9. Require that retail sales of gasoline be limited to a specified amount per sale or per day.
10. Take necessary steps to encourage car pooling, including restricting driving to a certain number of days per week.
11. The ability to direct all facets of industry to function in a manner consistent with our goals.
12. Require conversion of oil burning electrical generating plants to coal, to the greatest extent practicable.
13. Set indoor lighting standards for commercial, governmental and industrial facilities.
14. Restrict weekend and evening lighting in commercial and industrial facilities.
15. Set standards on highway lighting.
16. Reduce recreation on public lands.
17. Limit hours of operation for commercial, industrial and governmental establishments.
18. Reduce space heating in industrial establishments to the great extent practicable.
19. Require industry energy audit plans.
20. Ban advertising which encourages excessive use of energy.

I applaud most of them, I believe the American people will attempt to carry them out, many of them are overdue. But for the life of me I cannot see why Mr. Simon's statement could not have been made in open conference.

The incident to which I have alluded points up the necessity for Congress to open conference committee discussions to the public, to the press, to interested parties from organizations concerned. A great deal has been accomplished in this 93d Congress for open and public markup of bills, for elimination of closed executive sessions, for conducting the people's business in the people's presence. The next move is to open conference committee deliberations to the same public scrutiny. I urge my colleagues to join me in this attempt in the next session of the 93d Congress and insure that such a secret meeting in a room away from the accepted meeting place never again take place in the Congress of the United States.

Mr. RANDOLPH. Mr. President, the twin pressures of time and a crisis situation resulted in the urgency for this legislation coming before the Senate at this time.

This measure was expedited, but it was not hastily considered. Our work represents an effort by Members of the Senate and House of Representatives that was constructive in the light of the current energy supply situation.

This measure is a realistic response to a set of circumstances that developed rapidly in recent months to greatly accelerate the gap between our growing energy demands and the supply of fuel for meeting these demands. The situation required immediate action to provide Federal, State, and local governments with the tools necessary to cope with the energy crisis.

The conference report before us responds to the crisis without undermining the basic integrity of other long-term Government activities.

Mr. President, while I have been deeply involved for 14 years in the Senate in fuel and energy questions, my efforts during this conference were concentrated on those matters that are within the jurisdiction of the Committee on Public Works. Primarily, these were concerned with amendments to the Clean Air Act.

There has been an inclination by some people to place the entire blame for the energy crisis on environmental protection programs. I consider such statements to be in error.

Environmental protection laws were enacted to protect public health from the continued pollution of the world in which we live. In some instances, these important efforts have resulted in an increase in fuel demand. But these increases are small in comparison with the present fuel shortage.

The provisions of this bill are in no way a retreat from the commitment of the Congress to facilitate the ending of pollution of all types. The conferees agreed to temporary variances in some requirements of the Clean Air Act to meet the present crisis situation. These provisions are realistic and they are workable.

In arriving at these decisions, the conferees rejected proposals that did not relate to the alleviation of energy shortages in a meaningful way. The approval of some proposals, in fact, would have dealt unacceptable blows to the cause of environmental protection.

Just a few days ago the Senate passed S. 2772, a bill extending for an additional year the emission standards applicable to 1975 model automobiles. This action resulted from extensive study by the Committee on Public Works on the total question of motor vehicle pollution and the requirements for reducing it. The committee felt that this was the only change in the program that was warranted at the present time.

The House of Representatives, however, approved legislation granting far more lenient exceptions to the emission control requirements and to other provisions of the Clean Air Act.

The conferees resolved the differences of the two bodies in a realistic and acceptable manner.

The conference report incorporates the 1-year extension of the 1975 emission standards for hydrocarbons and carbon monoxide and gives the Administrator of the Environmental Protection Agency the authority to grant another 1-year extension.

In addition, it provides an emission standard for oxides of nitrogen at 2.0 grams per mile in model year 1977, as provided in the House bill, without any further extension of the statutory standards.

Deleted or modified in the conference report are a number of House provisions related to transportation controls and implementation plans in the air pollution control program.

In adopting these aspects of the conference substitute, the conferees did not intend to question either the need for or the authority of the Administrator of the Environmental Protection Agency to impose transportation control plans.

Transportation is a necessary service, and it is provided under an extensive system of government regulations, often heavily subsidized by public funds. In many American cities in the past generation, a pattern of decisions at all levels of Government has shaped a diffuse and auto-dependent transportation network. This network is often as much a source of air pollution and energy waste as emissions from the individual automobile itself, and action at all levels of Government will be required to change it. In particular, State and local governments must insure that the total transportation system is operated and developed in a manner as consistent as practicable with air standards. It is expected that the Environmental Protection Agency, in seeking enforcement of the requirements of transportation controls which it has promulgated, will take action against reluctant States requiring that such a State exercise its powers over transportation and implement transportation controls which have been promulgated as Federal law.

The conference report also authorizes some relaxation of air pollution requirements for stationary sources. Primarily, these are intended to permit—on a temporary basis—the conversion of some powerplants from scarce oil and natural gas to more plentiful coal. This switch cannot take place, however, if it would result in a substantial risk to public health.

All of these provisions relate directly to the present fuel shortage. Other pro-

posals will be given consideration next year as the committee continues its oversight review of the implementation of the Clean Air Act.

Mr. President, in arriving at this conference report, the conferees considered all of the many facets of the energy shortage as parts of a large and complex picture. We did not look at each issue in isolation. We attempted to relate each problem and each proposed solution to the total energy situation.

We know, for instance, that the United States has abundant supplies of coal, but they do not suddenly appear at factories and powerplants in sufficient quantities for use in an environmentally acceptable fashion.

The conferees were concerned for the loss or decrease in existing energy supplies as a result of inadequate supplies of materials and equipment. For example, there could be a substantial loss in coal production, because of the lack of mining supplies such as roof bolts.

The conferees provided authority to assure that timely steps be taken to assure the maintenance of existing energy supplies through the allocation of necessary equipment and supplies.

The Administrator must exercise the accelerated procedures in this act in order to facilitate the timely implementation of this program. Where the maintenance of existing energy production is at stake I would encourage the Administrator to exercise such accelerated procedures and transmit within 30 days to the Congress these portions of the contingency plan affecting existing energy production. Such plans or portions thereof for the allocation of materials and equipment would have to reside before the Congress for 15 days subject to the same congressional conditions of disapproval or approval as for an energy conservation plan.

It was at my urging and with the support of my colleagues the conference report express the firm intent that handicapped Americans be given special consideration in the allocation of energy supplies.

I believe that if it was possible to make special provisions for these individuals during World War II, appropriate measures can be taken to provide for their special needs during our present crisis.

I would expect that during the promulgation of the regulations by Mr. Simons, special consideration will be given to the handicapped person who needs to drive a specially designed vehicle to and from his place of employment, because he is unable to use public transportation due to his physical disability; and I certainly believe that handicapped citizens in need of medical and therapeutic services will also be given a priority.

These are some of the basic necessities of many of our very young and elderly handicapped, as well as those who are employed.

In summary, we intend that careful thought be given to this population and that we not add further to their hardship.

Mr. President, this conference report is a broad measure relating to the full spectrum of the energy shortage. It addresses immediate needs forthrightly. It postpones for full consideration in the new congressional session those matters about which there is doubt or which will have no significant effect on energy supplies or consumption.

In short, this is legislation which will enable us to face increasing energy shortages in the months immediately. ahead while we develop long-range measures to assure our country of adequate energy supplies in the future.

I commend my fellow conferees for their attention to the task at hand and for their realization of the seriousness of the problems. I am appreciative of the contributions made by my colleagues from the Committee on Public Works, Senator EDMUND MUSKIE, the chairman of our Subcommittee on Air and Water Pollution, and Senator HOWARD H. BAKER, JR., the ranking minority member of the committee. Their experience and their insight into the problems were invaluable.

My colleague from West Virginia, Representatives HARLEY O. STAGGERS, presided with fairness as chairman of the conference.

Senator HENRY M. JACKSON served as chairman of the Senate conferees and utilized his background in this field to help achieve solutions to difficult problems.

Mr. RANDOLPH. Mr. President, I understand that the December 13 mandatory fuel allocation regulations proposed by the Federal Energy Office give our Nation's schools the place of high importance which they deserve and I am very pleased about that.

The Senator from Washington knows that a general purpose of this act and the mandatory Petroleum Allocation Act is to protect the public welfare and maintain all essential public services. In this connection I ask the Senator about the intent of this measure with regard to education. It is my impression that this bill is not intended to result in a forced closing of schools, and that the educational process and schools will continue with a minimum of disruption.

It is my understanding also that the conference report language on education, coupled with the Senate record on passage of the Emergency Petroleum Allocation Act, insures that education will be treated as a vital public service whenever priorities are established under section 4 of the Emergency Petroleum Allocation Act.

Does the able Senator from Washington concur in this analysis?

Mr. JACKSON. Mr. President, the Senator from West Virginia is correct in his analysis of the intention of this measure. The conferees report intends that education be considered a vital public service.

Mr. FANNIN. Mr. President, first of all I want to commend the distinguished Senator from Washington. I want to say that he did nobly in fighting off the House amendments and supporting the Senate's bill. He did not want the windfall profits provision in the House bill, and offered a substitute calling for a study. He offered something that would provide for a thorough study on this particular subject, and I commend him for that, because, as the distinguished Senator from Louisiana has stated, this is a matter that should be given careful consideration in hearings and should come before us in the Senate Finance Committee next year.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. FANNIN. I am pleased to yield to the Senator from Louisiana.

Mr. LONG. If we are talking about an excess profits tax or a windfall tax, does not the question first occur, What is windfall profit or an excess profit? The first thing we need to do is determine what is excess and what is not excess.

Mr. FANNIN. I agree wholeheartedly with the Senator, and this was a subject that was discussed. The conferees never even had a chance to see the language of the legislation until it was placed on their desks this afternoon. This is just exactly why the Senator's statement is so precise in presenting to the Senate some of the problems we have with this legislation.

Mr. LONG. Will the Senator yield further?

Mr. FANNIN. I am pleased to yield further.

Mr. LONG. Is it not also true that if we are ever going to solve the energy crisis, we are going to have to permit the energy industry to make enough profit so that it can raise the capital necessary to provide the public with energy?

Mr. FANNIN. I wholeheartedly support exactly what the Senator has said. We have talked about increased exploration, about the tremendous cost.

They say that by the year 1985, it wil' take $1.350 trillion of investment into this industry, if we are going to succeed in bringing forth the amount of petroleum and other products that will be needed. This is in the energy field alone: $1.350 trillion.

How can that be obtained? They are proposing that as much as $650 billion would need to come from the petroleum industry over that period of time. There is not any way we can get that money invested if we are going to have some device which is absolutely unworkable.

Just what has been explained here this afternoon shows how unworkable this rebate system would be as called for in section 110 of the conference report. It is just impossible to calculate what the cost would be and what the results would be.

Mr. LONG. Will the Senator yield for a further question?

Mr. FANNIN. I am very pleased to yield.

Mr. LONG. Is this not basically about the way that the Chase Manhattan Bank, we will say, which makes large amounts of loans, perhaps as much as any lending institution in the world, or maybe even as much as any lending institution in America, figures, in analyzing how we will meet our energy needs here and around the world, that it will take about $1.350 trillion to provide us with the free world's requirements of energy between now and 1985?

Further, that it is estimated that to raise that much capital, the industry

must make enough profit to borrow money if the lenders are to be regarded as having security for a loan that would justify a banker or any other institution making it? And further, that in order to do that, the industry should be able to earn at least half of that amount in profits in order to justify the bankers and the other lending institutions in lending the other half?

Mr. FANNIN. Studies that have been made by perhaps the most qualified people in the world indicate exactly what the Senator has said, that it would take approximately $650 billion that must be recovered from the industry if this is to be done. It must be invested by industry. This can only come from profits. If we place legislation into effect that discourages industry from going forward with exploration—and some of the explorations are tremendously expensive—we are defeating the whole purpose of the bill, which is to help to accomplish the objective of having more energy available for the American people and at a lower cost.

Mr. LONG. Is the Senator aware of any hearings, any information, or any evidence produced in the legislative history of the bill, which has made a proper allowance and has demonstrated how the industry can raise enough money to do what is required of it under this excess profits tax or any other bill?

Mr. FANNIN. The Senator is correct. Studies have not been made by Congress. They have been made, as I stated originally, by Congress and people who are highly qualified, but that has not been presented to Congress for consideration. We have not had the opportunity to question the witnesses that would appear before Congress to verify this information. So we have just been dealing in the dark. It is not the way the legislation should be handled.

Mr. LONG. Is it not true that we already have laws that provide the authority for the Government to control the price of oil as well as gasoline to come?

Mr. FANNIN. That is correct.

Mr. LONG. They already exist. So that any law to protect the public in the price of the product is already available to us. There is even more authority in the law than the administration is using at this time, as I understand it.

Now, is it not correct that while the price of oil is presently being controlled at the pump by the price of gasoline, they do have the power to fix the price at the well if they want to?

Mr. FANNIN. The Senator is correct. The Federal Power Commission has controlled the price of natural gas and that is why we have such a shortage of natural gas today. The Senator is correct. The price of oil can also be controlled under other laws.

Mr. LONG. That being the case, are we not in prospect of having the same situation we had when we were trying to control the price of poultry, with the results we had, that the price fixed for poultry did not permit the farmer to make enough money to pay for his feed. Does not the Senator recall what happened under the law?

Mr. FANNIN. I certainly do. It was disastrous.

Mr. LONG. Was it not also true that the people who had the incubators to produce the little chicks found that they could not charge enough for the chickens to sell them at a profit, that they could not charge enough even to pay for the feed that went into raising the chickens. So, as the Senator knows, they simply destroyed the baby chicks.

Mr. FANNIN. The Senator is correct. That is actually what happened. It was unbelievable. It happened because of the mistakes that were made.

Mr. LONG. Did not that situation obtain until someone adjusted the price so that they could make a profit?

Mr. FANNIN. The Senator is correct. The Senator will remember very well what happened to the price of beef when it was under control, that prices went sky-high, but when they took off the controls, what happened was that the ranchers who thought they were going to sell their beef at 80 cents a pound, found out that they could not even sell it for 60 cents a pound.

Mr. LONG. I am sure the Senator will agree that, like that situation, the filling stations will be closing down and refusing to sell gas because they are not permitted to make an adequate profit in order to operate their filling stations. Is that not correct?

Mr. FANNIN. The Senator is absolutely right. That is an appropriate illustration.

Mr. LONG. The Senator is familiar, I am sure, with what happened to the drivers of the trucks on our highways. They blockaded the highways because they were not permitted to make enough money to drive their trucks because of the speed limit that was placed on them.

Mr. FANNIN. The Senator is correct. That is another good illustration of how ridiculous it would be to adopt this legislation.

Mr. LONG. Does not all that indicate that someone should have a slight idea of what he is doing when he starts tinkering with the economy and trying to regulate someone's industry?

Mr. FANNIN. It is absolutely essential, if we are to overcome the problems we have on energy. It will be done only through the free enterprise system which has always been able to meet the challenge. Here, we are taking away the very incentives that they need to go forward with their investments, for the research and development and the exploration, and to build the refineries and to do what is necessary, including offshore drilling, which are tremendously expensive operations which entail expensive facilities that must be constructed and built for the transportation of the fuel. All of this enters into the problem we face. Unless we have the money available to do it, the situation will be worse than it is today.

Mr. LONG. The Senator serves on the Committee on Interior and Insular Affairs which initiated this legislation, does he not?

Mr. FANNIN. The Senator is correct.

Mr. LONG. Can the Senator tell me how many days and hours of hearings have been held to arrive at the profit level that would be appropriate for this industry which this bill would seek to regulate on a profit basis?

Mr. FANNIN. The Senator has brought up a subject that has not been thoroughly discussed. In fact, we did not have, in the Senate version of the legislation, as has been brought out this afternoon, through the stipulations that are involved in our discussions, we did not have before us the matters—that is, the testimony about it, and calling in the expert witnesses. That has not been done.

I serve with the distinguished chairman of the Finance Committee. It was our obligation to study this measure. The administration has sent up a bill with recommendations on excess profits. I know that the distinguished Senator, the chairman of the committee, will be considering those measures at the proper time.

When we talk about what is happening, we are not, in this legislation, doing anything that cannot be covered just as comprehensively if not more adequately, after we get back as now, insofar as excess profits—windfall profits, are concerned.

Mr. LONG. If we are going to pass a law against excess profits and pass a well-considered measure in the national interest, is it not first necessary to determine what is a fair level of profit?

Mr. FANNIN. It is very essential to do so. I might say to the distinguished Senator that we have before us this morning information regarding profits in other industries, and the oil industry is far below the profits of most of the industries that were discussed. I would say it is not only proper but absolutely essential that we know what we are doing in this respect before we vote on such a subject.

Mr. LONG. Has the Committee on Interior and Insular Affairs sought to hold hearings and pinpoint the exact level of the profits that would be proper and fair for the oil industry?

Mr. FANNIN. The answer is that they have not. The Committee on Interior and Insular Affairs has not done so.

Mr. LONG. Would it not be well, if the committee wanted to provide something of that sort, that they at least would give us the benefit of their information, after they have obtained such information?

Mr. FANNIN. I would certainly think it would be highly proper. I can certainly commend the distinguished chairman of the Committee on Interior and Insular Affairs, who did fight for this very stipulation in the bill. As I stated earlier, he did offer an amendment, a substitute for this language, that would have provided for a study. It did not say that the study would be made by the Committee on Interior and Insular Affairs, but it would be a study that could be made by the Treasury Department and would, of course, be sent to the proper committee.

Mr. LONG. To whose expertise are we indebted for this measure which, we are told, is neither a tax nor a revenue measure, even though it determines how much money the oil people and the producers of energy should be

permitted to make in this country? Whose expertise—who is the expert that worked all this out and has he necessary knowledge of the industry to advise us what the proper level of profits should be?

Mr. FANNIN. I can say to the distinguished Senator that to my knowledge there was no information furnished to the conferees. Any information would indicate from the studies that have been made that the expertise that should have been involved was utilized. So, so far as I know, the committee handling the measure in the House, and of course the Senate too, has not been involved in the studies. At least, the Interior Committee, which was handling it, has not been involved in these studies. The Interior Committee was the leading committee, although the other committees were involved—the Commerce Committee and the Committee on Public Works—on specific sections.

I commend the Senator from Maine (Mr. MUSKIE) for what I thought had worked out some part of the difficulties. Certainly, as to the clean air part, I commend him and particularly the Senator from Tennessee (Mr. BAKER) and the other members they worked with for their excellent services in providing the conferees with the proper information and the wording that would assist in getting through legislation that is needed at this time to accomplish the objectives we are talking about.

But getting back to the specifics that would be involved in the Finance Committee, I would say that we just did not have information furnished to us that would justify our taking the action that was taken by the conferees.

Mr. LONG. Then, do I correctly understand that we are to be asked to vote on this matter without knowing the credentials of the expert who has worked out this proposal to determine the level of income that the industry requires to operate in the national interest, that we are not to be permitted to know what information he used to arrive at his conclusion; nor, for that matter, are we even to be permitted to know the identity of that expert?

Mr. FANNIN. That is correct.

The Senator from West Virginia (Mr. RANDOLPH) was extremely helpful. He was working on a specific part of this measure. He did the work, and he did it well. This was extremely helpful. But this does not involve what we are talking about here today. It did not involve the sections that the Senator is referring to in his comments. The Senator from Alaska (Mr. STEVENS) also made an outstanding contribution.

Mr. LONG. That reminds me of the story we used to hear around here, about the boys who were playing football. Near the end of the game, a substitute quarterback was rushed in. He called a play and scored a touchdown, which won the game.

The coach asked him how he came to call that particular play. The quarterback said:

I looked at our guard, Joe. He was all worn out and tired and bloody from fighting all day, and I looked at the number 8 on his jersey. Then I looked over at Jim, who had been fighting them all day, and he had number 15 on his jersey. I thought about how they had been fighting for victory for our school, and I put those two fine men together, 8 and 15 are 27, so I just called play 27, and we went for a touchdown.

The coach said:

Boy, don't you know that 8 and 15 are 25?

The quarterback replied:

Coach, it's a good thing I don't know as much as you do, or we would have lost the game.

Does it not appear that that is the way one went about providing the manner in the next few years?

Mr. FANNIN. Yes. The only difference is that he won the ball game and we did not. When we got through with this conference, we had not won the ball game.

The Senate conferees fought very hard for good positions in this legislation and to delete some of the sections that were not needed, which properly should not have been included in the bill. But we were unsuccessful. The results certainly were not as desired. We on the Senate side did not win the ball game in the conference.

Mr. LONG. Can the Senator advise us whether any suggestion was made in the course of all this that the people who have expertise in the area, who know something about the industry, should be permitted or invited to come before the conferees or before one of the two committees and give the committees the benefit of their knowledge whether it be in the banking field, in the production field, or in the refining area? Was any of that sort of information sought in arriving at this, to the Senator's knowledge?

Mr. FANNIN. The information the Senator is referring to was not. We were privileged to have some of the administration witnesses there, who discussed some of the provisions in the bill, but they did not offer expertise in any certain field. They did not offer information to us that was available to them because of their experience and expertise in a particular field—such as the Senator is referring to, of exploration, refining, distributing, marketing, or whatever it might have been.

The Senator is correct. When we look at what resulted, it was a very hurried placing together of different segments. I understand that it came from many amendments, because they talked about 80 or 90 amendments that were offered on the floor of the House of Representatives, perhaps more than that. It seems to me that in this one section which they must have gathered together from many amendments, without trying to place them together so that there would be continuity or connection, one to the other. It is just a mass of words that I think would create confusion. When one asks to have it explained, it is very difficult for an explanation to be given.

Mr. LONG. What comfort can we take from the fact that the conference resulted in some language to the effect that this tax will go into effect as of January 1975, retroactive for the entire year of 1974, unless in the interim Congress should change it? What comfort can we take from that?

Mr. FANNIN. Very little comfort; because, as the Senator well knows, there is no assurance that Congress would take action. If the Senate took the action, if we were able, as the Senator well knows, to get the bill through the Finance Committee, which would be the proper committee to handle the subject we are discussing, we have no assurance of what would be done on the floor or what would be done in the other body. There is no assurance that that would come out.

This is what was stated several times: Why worry about these provisions? We can do whatever is necessary next year—that is, 1974—in the proper committees, and it will all replace this particular language.

The Senator has expertise in this field. He is perhaps one of the leaders in this body in that respect, as to just what can be done. He has been a Member of this body for many years and certainly has been a leader in this field, and he knows the tax problems perhaps better than any other Member of this Senate.

Mr. LONG. Is it not true that Congress always has the power to repeal a bad law or, for that matter, even a good one?

Mr. FANNIN. The Senator is correct.

Mr. LONG. So that when one says that this law will take effect unless Congress changes it, is that not like saying zero?

Mr. FANNIN. That is right.

Mr. LONG. Is it not self-evident that a bad law can always be repealed?

Mr. FANNIN. That is true.

Mr. LONG. If you can get the votes.

Mr. FANNIN. If you can get the votes.

Mr. LONG. But has the Senator found how difficult it is to repeal some of the bad laws that are on the statute books?

Mr. FANNIN. I have heard it said that it is twice as hard to repeal something as it is to pass something. So this is what we would be up against. Not that it takes that many more votes; but when something is in the law and one is seeking to take it out, many Members of Congress are not so concerned about it, and perhaps in many instances they are not cognizant of the ill effects of it, so they just do not do anything about it. It is easier not to do anything than to do something about it.

Mr. LONG. Is it not true that the administration, speaking for President Nixon, and the experts available to him and the Interior Department, advise us that one of the best things we could do to meet the energy crisis would be to decontrol price regulations of gas and make it competitive?

Mr. FANNIN. That is correct, and I am not from a producing State. But I do know that the consumers in my State of Arizona would benefit more from that than anything else we could do because now they are short of natural gas.

To use an illustration, in the city of Tucson, Ariz., in 1972 electricity was generated 91 percent by gas and 9 percent by oil. This January they are allotted 3-percent natural gas and 97-percent oil. Now they are told that they are being cut 35 percent in oil. If this situation is not corrected, it means they will be rationing electricity in that city

and that means that they will be cutting off customers. It may get down to the point where they cannot serve residential customers and, perhaps the northwest section will be off from 6 until 12 and another section will be off from 12 until 6, 25 percent would be on electricity. They are faced with a sad situation, and only because natural gas is not deregulated.

Mr. LONG. Is it not true that the Federal Power Commission which has the duty to administer the price of natural gas, and to control it, has recommended that natural gas be deregulated, and that the Washington Post, which applauded the decision to regulate natural gas in the beginning, has subsequently decided in an editorial that they agree that natural gas should be deregulated? Notwithstanding all that, is it not true we have been unable to obtain a bill that would bring about deregulation of natural gas, even though the administration is recommending it, and they are the people who have the responsibility to regulate it? Even such great spokesmen for liberal causes as the Washington Post have recommended it.

Mr. FANNIN. The Senator is correct.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the editorial entitled "Your Gas Bill and the Shortage," published in the Washington Post on December 23, 1972.

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

YOUR GAS BILL AND THE SHORTAGE

To keep natural gas cheap for consumers, the federal government regulates the price. Because the federal government keeps the price low, there is now a severe shortage of gas. Because of the shortage, we are now importing gas from Algeria at six times the average price of domestic gas.

Our national policy for natural gas has turned into a failure. But it has been an instructive failure, demonstrating the importance of prices on any policy for fuels and energy. Since President Nixon is engaged in a broad review of our energy requirements, and the Senate is independently carrying out its own study, changes in the law are presumably coming. In the case of natural gas, it would now best serve the consumer's interest to end governmental regulation of prices at the wellhead.

As in other aspects of energy policy, the American consumer now has a choice between traditionally cheap gas with deepening shortages and curtailments of service, or more expensive gas with guaranteed supplies. How much more expensive? It depends largely on the price of fuel oil. One of the most bizarre elements in the present law is the federally enforced discrepancy between the cost of gas and its thermal equivalent in oil. While the government holds the price of gas down, it holds the price of oil up by imposing import quotas.

The present average price of gas at the wellhead is about 20 cents per thousand cubic feet. An equivalent amount of energy in oil costs about 50 cents, and that is why a great many industries are using gas as boiler fuel. An end to regulation would probably mean that gas prices would rise slightly above oil prices, since gas is cleaner and much preferable for environmental reasons. But as gas became more expensive, many industries would then switch to oil and free vast quantities of gas to residential consumers. The effect on the consumer's gas bill would be substantial but not drastic. The retail price is mostly in transmission expenses. The gas that is 20 cents at the well in Oklahoma costs the typical Washington home owner about $1.65. An increase to 50 cents in Oklahoma would mean, if passed along penny for penny, an increase to $1.95 at the retail level in Washington. This increase would serve several purposes.

It would not only open new supplies to present users, but it would preserve the position of gas as a major domestic fuel in the metropolitan areas. Gas pollutes the atmosphere less than any competing fuel, and is well adapted for areas where millions of families must crowd into small spaces. At the same time the rising price would induce home owners to be a bit more careful about wasting fuel. As prices go up, it becomes cheaper to insulate one's roof than to continue heating the sky.

One dramatic and unfortunate result of the present regulatory system is that producers are increasingly selling their gas in the states where they drill it. The Federal Power Commission and its rule touch only interstate sales. While gas is being denied to customers in the big cities of the East, the gas-producing states are recruiting new industries with promises of unlimited gas supplies. The five principal gas-producing states, with 10 per cent of the country's population, are currently using almost one-third of its gas. They are using it mainly for industrial boiler fuel. Some of it is burned to generate electricity to heat homes and cook food, with a loss of about two-thirds of the energy in the conversion process.

There are a variety of theoretical solutions to these anomalies. Representatives of consumers' interests have put forward, from time to time, programs of legislation intended to hold prices low while simultaneously maintaining regulation and ensuring future supplies to homes and cities. These proposals all necessarily involve some sort of rationing device to cut industrial use. It is an attempt to cure the present defective system of regulation by introducing further layers of regulation. Past experience with rationing and layered regulation does not inspire confidence that it will improve either the equity or the efficiency of the system despite its authors' good intentions.

Deregulation of gas is a difficult task for Congress, largely owing to the deep and well-founded public suspicion of the oil and gas industry. That industry has greatly contributed to its own troubles by the raucous and dubious political tactics over the years. It is not entirely forgotten in this city that Congress, in 1956, passed a deregulation bill only to have it vetoed by President Eisenhower after Senator Case of South Dakota announced that an oil lobbyist had offered him a "campaign contribution" to enlist his vote. There is a tendency in our part of the country to assume that whatever is good for the oil-and-gas lobby must be disastrously bad for the rest of us. Deregulation of gas is an exception to this rule. It will mean more money for the gas industry but, much more important, it will mean adequate and reliable supplies for consumers.

The pipelines and the distribution companies are monopolies and would remain, of course, under FPC regulation. Deregulation would affect only the producers. But there is an obvious danger of collusion between producers and pipelines to jack the wellhead prices up beyond competitive levels. Some pipelines have interests in production companies, and vice versa. Any deregulation legislation would have to assure competitive pricing in the gas fields.

Coal is plentiful but dirty. Nuclear energy is clean but technically difficult. Oil is available but, increasingly, it has to be imported. Gas is in short supply because we hold the price artificially below the prices of competing fuels. It illustrates the crucial importance of pricing to the future national energy policy. Deregulation is part of any reasonable attempt to match supply with a soaring demand.

Mr. FANNIN. Mr. President, the editorial explains exactly what the Senator is talking about. He is very explicit in stating what has happened over the years and the suffering that has come about from the standpoint of adequate supplies as a result of the action of the Federal Power Commission in 1952 or thereabouts and this action was taken. Industry has suffered but more importantly consumers have suffered. They are not able to get their supplies. The illustration of Tucson going from 91 percent supply for electrical generation down to 3 percent demonstrates how extreme the situation is.

Mr. LONG. Mr. President, I ask unanimous consent that Bob Willan and Bill Morrison of the staff of the Committee on Finance be permitted on the floor during the debate.

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

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

Mr. FANNIN. Does the Senator have a question?

Mr. ABOUREZK. I wish to offer a motion.

Mr. FANNIN. The Senator from West Virginia had asked that I yield to him. I have felt the Senator wanted to ask a question. I have said I would yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I thank the Senator from Arizona for yielding so that I may comment on a reversal in position on the part of the Washington Star-News, presumably, in reference to an earlier editorial related to the deregulation of natural gas.

In this body, in recent days we have had the opportunity to debate what many of us have advocated: That the price of new sources of interstate natural gas be deregulated. But efforts on the Senate floor have not been successful.

I am one who has taken the position that there should be such deregulation. On at least two recent occasions such efforts have resulted in the tabling of amendments. So we cannot criticize the other body—the House; however, we can bear the criticism ourselves for having failed, where if there was the opportunity, perhaps, to present and consider this matter on an up or down vote.

For just a moment I am going to ask the Senator from Arizona some questions. That is really why I rose. I do not desire to infringe upon the time of the Senator from South Dakota (Mr. ABOUREZK), but I have been on my feet for some 10 minutes, attempting to obtain recognition.

Mr. FANNIN. I apologize to the Senator for not having yielded earlier.

Mr. RANDOLPH. My purpose is not to annex unto myself time I should not have, but the conference report does not completely satisfy the Senator, although I signed the report, and I support the conference. I also hope that in a reasonable period of time we shall be able to vote on the conference report—either up or down.

I ask the Senator from Arizona, does he not recall what I said in conference, as late as this morning on excess profits. When we discuss the matter of excessive or windfall profits, we are talking about criteria. Therefore we must be very careful, if we require use of the base period concept, for this criteria is fraught with problems.

On the Senate floor, a few days ago, we were considering problems connected with increasing coal supplies. At that time, I asked how we could realistically compare 1973 coal prices with the base period of 1972, when coal production productivity has been down in 1973. So we have run into severe difficulties with this criteria.

Mr. FANNIN. The Senator is correct; he is very explicit in bringing that out, in explaining it, and in giving an illustration.

Mr. RANDOLPH. In the conference I said that I felt the Senator from Alaska (Mr. STEVENS) had a more exact criterion; he proposed that judgments on what constitute windfall profits should take all the major industries into consideration for the same time period. This should be compared with the petroleum industry for the same period of time.

Mr. FANNIN. The Senator is exactly correct.

Mr. RANDOLPH. I want to clarify the RECORD, because the petroleum industry profits have been mentioned here in a passing reference compared to other major industries in the United States.

It has been pointed out by the Department of Commerce that during the first 9 months of this year the petroleum industry had profits of 13.2 percent. For perspective, this figure compares on what we call an equity or on an investment basis to other profits in the same period of 16.5 percent for appliances; 17.5 percent for the automotive industry; almost 20 percent in drugs; in electronics, it was 15.2 percent, and for publishing it was 13.9 percent. It also is pointed out that only the Nation's railroads, with a rate of return of 6.1 percent, had a lower return on equity than the petroleum industry.

Was that not discussed today?

Mr. FANNIN. The Senator is correct. That was discussed quite thoroughly, and he explained in detail exactly what information had been given to him. As I recall, it came from one of the governmental departments. That was certainly accurate information in respect to what has happened to these various industries.

Mr. RANDOLPH. Mr. President, I appreciate this opportunity to ask questions of the able Senator from Arizona in reference to the consideration of these matters. I think he will agree with me that in the interest of equity and our country, we best not attempt to make so-called whipping boys, to use a trite expression, out of this industry or industries that contributes so much to the energy resources development of our country. By the very nature of the business it involves very heavy capital investments in oil, gas, and coal exploration and development in order to bring these energy resources to the marketplace.

Mr. FANNIN. The Senator is correct. He has adequately covered this subject. Not only that, but I have heard the Senator explain the necessity for these industries to go forward in order that they can have the resources that will be needed to fully engage in these activities, and in order that we would have in these specialized industries the expertise that is so necessary to accomplish the objective now before us of overcoming the energy crisis.

Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from South Dakota (Mr. ABOUREZK) and that when the matter he is discussing is disposed of I will then have the floor.

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

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

At this time I think there are enough Senators around to try to get a sufficient second. On the motion I am going to offer to recommit, I ask for the yeas and nays.

The PRESIDING OFFICER. It will take unanimous consent, unless the motion is made first.

Mr. ABOUREZK. I will just make the motion first.

Mr. President, I move that the conference report on S. 2589 be recommitted with instructions that the conferees accede to the House position on banning oil shipments to Southeast Asia.

Now I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. JACKSON. Mr. President, I move to lay that motion on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the request of the Senator from South Dakota?

There is not a sufficient second.

The yeas and nays were not ordered.

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

Mr. LONG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed the call of the roll, and the following Senators answered to their names:

[No. 615 Leg.]

Abourezk	Cranston	Metcalf
Allen	Fannin	Muskie
Baker	Griffin	Nelson
Bartlett	Hansen	Randolph
Bible	Hart	Scott, Hugh
Byrd, Harry F., Jr.	Hughes	Scott, William L.
Case	Jackson	Williams
Cook	Long	
	McGovern	

The PRESIDING OFFICER. A quorum is not present.

Mr. BIBLE. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

After some delay, the following Senators entered the Chamber and answered to their names:

Bayh	Humphrey	Pell
Beall	Johnston	Proxmire
Biden	Kennedy	Ribicoff
Burdick	Magnuson	Schweiker
Byrd, Robert C.	Mansfield	Sparkman
Chiles	Mathias	Stennis
Clark	McClellan	Stevenson
Curtis	McGee	Symington
Dole	McIntyre	Thurmond
Hartke	Mondale	Tunney
Hathaway	Montoya	Weicker
Hruska	Nunn	Young
Huddleston	Packwood	

The PRESIDING OFFICER (Mr. COOK). A quorum is present.

The question is on agreeing to the motion of the Senator from South Dakota (Mr. ABOUREZK) to recommit the conference report with instructions.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President—Mr. President——

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, I am seeking recognition—

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MANSFIELD. Mr. President, despite the fact that I am 100 percent in favor of what the Senator from South Dakota (Mr. ABOUREZK) is endeavoring to do, and because of the further fact that I do not want to see an already difficult conference report burdened down more—it has enough difficulties already—I move to table the motion of the Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Montana to table the motion of the Senator from South Dakota (Mr. ABOUREZK) to recommit the conference report with instructions.

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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator rom Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the

Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senatcr from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Also, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 31, nays 31, as follows:

[No. 616 Leg.]

YEAS—31

Bayh	Magnuson	Proxmire
Beall	Mansfield	Randolph
Bible	McClellan	Ribicoff
Case	McGee	Scott, Hugh
Chiles	Metcalf	Sparkman
Cranston	Mondale	Stennis
Hart	Montoya	Stevenson
Hartke	Muskie	Symington
Hathaway	Nunn	Williams
Huddleston	Packwood	
Jackson	Pell	

NAYS—31

Abourezk	Curtis	Mathias
Allen	Dole	McGovern
Baker	Fannin	McIntyre
Bartlett	Griffin	Nelson
Biden	Hansen	Schweiker
Burdick	Hruska	Scott,
Byrd,	Hughes	William L.
Harry F., Jr.	Humphrey	Thurmond
Byrd, Robert C.	Johnston	Tunney
Clark	Kennedy	Weicker
Cook	Long	Young

NOT VOTING—38

Aiken	Eastland	McClure
Bellmon	Ervin	Moss
Bennett	Fong	Pastore
Bentsen	Fulbright	Pearson
Brock	Goldwater	Percy
Brooke	Gravel	Roth
Buckley	Gurney	Saxbe
Cannon	Haskell	Stafford
Church	Hatfield	Stevens
Cotton	Helms	Taft
Domenici	Hollings	Talmadge
Dominick	Inouye	Tower
Eagleton	Javits	

So Mr. MANSFIELD's motion to lay Mr. ABOUREZK's motion on the table was rejected.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote. I ask for the yeas and nays.

Several Senators addressed the Chair.

Mr. MANSFIELD. Mr. President, a motion was made to reconsider the vote, the yeas and nays were asked for, and I demand them.

The PRESIDING OFFICER. The yeas and nays have been requested.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to reconsider the vote by which the motion to table was rejected. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas, Mr. TOWER) are necessarily absent.

Also, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 39, nays 23, as follows:

[No. 617 Leg.]

YEAS—39

Baker	Hartke	Nelson
Bartlett	Hathaway	Nunn
Bayh	Huddleston	Pell
Beall	Hughes	Proxmire
Bible	Jackson	Randolph
Biden	Kennedy	Ribicoff
Byrd, Robert C.	Magnuson	Scott, Hugh
Case	McClellan	Stennis
Chiles	McGee	Stevenson
Cook	Metcalf	Symington
Cranston	Mondale	Thurmond
Dole	Montoya	Williams
Hart	Muskie	Young

NAYS—23

Abourezk	Hansen	Packwood
Allen	Hruska	Schweiker
Burdick	Humphrey	Scott,
Byrd,	Johnston	William L.
Harry F., Jr.	Long	Sparkman
Clark	Mansfield	Tunney
Curtis	Mathias	Weicker
Fannin	McGovern	
Griffin	McIntyre	

NOT VOTING—38

Aiken	Eastland	McClure
Bellmon	Ervin	Moss
Bennett	Fong	Pastore
Bentsen	Fulbright	Pearson
Brock	Goldwater	Percy
Brooke	Gravel	Roth
Buckley	Gurney	Saxbe
Cannon	Haskell	Stafford
Church	Hatfield	Stevens
Cotton	Helms	Taft
Domenici	Hollings	Talmadge
Dominick	Inouye	Tower
Eagleton	Javits	

So the motion to reconsider Mr. MANSFIELD's motion to lay on the table Mr. ABOUREZK's motion was agreed to.

The PRESIDING OFFICER. The motion to reconsider the vote is agreed to, and the vote now recurs on the motion to lay on the table the motion to recommit. The yeas and nays having been ordered on the original motion, the yeas and nays are now in order and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Also, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from

New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 38, nays 23, as follows:

[No. 618 Leg.]

YEAS—38

Baker	Hathaway	Packwood
Bartlett	Huddleston	Pell
Bayh	Humphrey	Proxmire
Beall	Jackson	Randolph
Bible	Kennedy	Ribicoff
Byrd, Robert C.	McClellan	Scott, Hugh
Case	McGee	Stennis
Chiles	Magnuson	Stevenson
Cook	Mondale	Symington
Cranston	Montoya	Thurmond
Dole	Muskie	Williams
Hart	Nelson	Young
Hartke	Nunn	

NAYS—23

Abourezk	Griffin	Mathias
Allen	Hansen	Schweiker
Biden	Hruska	Scott, William L.
Burdick	Hughes	Sparkman
Byrd, Harry F., Jr.	Johnston	Tunney
Clark	Long	Weicker
Curtis	McGovern	
Fannin	McIntyre	
	Mansfield	

NOT VOTING—39

Aiken	Eastland	McClure
Bellmon	Ervin	Metcalf
Bennett	Fong	Moss
Bentsen	Fulbright	Pastore
Brock	Goldwater	Pearson
Brooke	Gravel	Percy
Buckley	Gurney	Roth
Cannon	Haskell	Saxbe
Church	Hatfield	Stafford
Cotton	Helms	Stevens
Domenici	Hollings	Taft
Dominick	Inouye	Talmadge
Eagleton	Javits	Tower

So the motion to lay on the table the motion to recommit was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives of Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 10511) to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the amendments of the House to the bill (S. 2812) to authorize a formula for the allocation of funds authorized for fiscal year 1975 for sewage treatment construction grants, and for other purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 11333) to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 2267. An act to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes;

S. 2482. An act to amend the Small Business Act; and

S. 2491. An act to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains.

H.R. 1316. An act for the relief of Claude V. Alcorn and twenty-one others;

H.R. 2303. An act to continue mandatory price support for tung nuts only through the 1976 crop;

H.R. 4738. An act to provide for the striking of medals in commemoration of the one-hundredth anniversary of the statehood of Colorado;

H.R. 5760. An act to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Washington, in 1974;

H.R. 6758. An act to amend chapter 33 of title 28 of the District of Columbia Code, relating to usury, and for other purposes;

H.R. 10806. An act to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia; and

H. J. Res. 858. A joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The enrolled bills and joint resolution were subsequently signed by the Acting President pro tempore (Mr. METCALF).

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

Mr. FANNIN. Mr. President, it is with considerable sadness and consternation that I rise to discuss the report of the conferees on S. 2589, the Energy Emergency Act.

As reported from conference, this bill not only fails to remedy the energy crisis, would inhibit public cooperation, increase fuel shortages and make the situation chronic.

This bill is a blueprint for chronic energy crisis.

In this legislation, on one hand, Congress is refusing to take the necessary actions to deal with the immediate realities of the crisis; on the other hand the Congress is greatly restricting the effective authority of the President to take action.

It is inconceivable to me that the President—that any President—could accept this bill.

Instead of seeking to solve the energy crisis, this report appears to be aimed at laying blame, at taking punitive action against the energy industry. What we need is to establish programs to work together with all segments of our society to solve this problem; it is foolhardy for the Congress to declare war on the very industry that is essential to resolution of our dilemma.

Mr. President, I would like to explain in some detail the underlying facts which form the basis for reaching the conclusions I have just expressed.

When it became apparent that the conferees were determined to report legislation that would impose upon the President a legislative direction that would "worsen" rather than "cure" the energy emergency, he was so informed.

The President responded by telephoning the leadership of both parties of the House and Senate conferees to discuss the matter with them and seek their cooperation so that mutually acceptable legislation could be developed without necessity of veto. The conferees were requested to recess the conference long enough to meet with Mr. William Simon whom the President dispatched to speak with the conferees.

The chairman of the House and Senate conferees agreed to recess the conference whereupon at about 8 p.m. they adjourned to an adjoining room to meet with Secretary Simon.

Secretary Simon indicated that it was his hope that the conferees would agree to a compromise which would enable the administration to move forward expeditiously to implement broad based conservation measures which could result in sufficient fuel savings to last us through the winter with a minimum of hardship.

The chairman of the conference invited Secretary Simon to state what problems he had with the bill and what conservation measures he would implement if given the authority he requested.

Secretary Simon responded that the three-tiered congressional disapproval provision would impose an impossible dilemma regarding the effective administration of the act. Mr. Simon was asked to volunteer what an acceptable compromise would be. He answered that the administration should be given the authority to impose the conservation measures, already formulated, between the date of enactment and the reconvening of the Congress on January 21, without congressional disapproval authority. To retain the congressional disapproval authority would result, he stated, in such uncertainty on the part of the public that compliance would be discouraged and that segments of the public would actively seek congressional support to disapprove the administration's actions. The constitutional validity of the congressional disapproval provisions was also questioned.

In response to questions by conferees regarding what conservation action the administration intended to implement, Secretary Simon indicated in great detail precisely what such actions would be. He was asked to prepare a list of such actions and he did. I later submitted this list to the conferees. I will now read it to my colleagues.

LIST OF CONSERVATIONS ACTIONS TO BE FREE OF 15-DAY VETO BY CONGRESS

1. Retail gasoline sales may be banned from 9:00 p.m. Saturdays to 12:01 a.m. Mondays.
2. An additional day on which retail gasoline sales may be banned.
3. Maximum speed limit of 55 MPH for inter-city buses and trucks and 50 MPH for automobiles.
4. Ban promotional, display and ornamental lighting by commercial establishments, including advertising identification lighting at times not essential.
5. Reduce fuel for use by general aviation.
6. Ban exterior residential ornamental lighting.
7. Turn down thermostats 6 degrees in residential and 10 degrees in commercial establishments.
8. Promote weatherizing of homes with insulation, weather stripping and storm doors and windows.
9. Require that retail sales of gasoline be limited to a specified amount per sale or per day.
10. Take necessary steps to encourage car pooling, including restricting driving to a certain number of days per week.
11. The ability to direct all facets of industry to function in a manner consistent with our goals.
12. Require conversion of oil burning electrical generating plants to coal, to the greatest extent practicable.
13. Set indoor lighting standards for commercial, governmental and industrial facilities.
14. Restrict weekend and evening lighting in commercial and industrial facilities.
15. Set standards on highway lighting.
16. Reduce recreation on public lands.
17. Limit hours of operation for commercial, industrial and governmental establishments.
18. Reduce space heating in industrial establishments to the greatest extent practicable.
19. Require industry energy audit plans.
20. Ban advertising which encourages excessive use of energy.

After considerable discussion the Senate conferees voted favorably on the items Secretary Simon had indicated would save the greatest amount of fuel but the House conferees would not concur.

Our chairman of the Interior Committee Senator JACKSON supported and obtained support of all of the Senate conferees.

Secretary Simon also stated that the unemployment compensation provisions of the bill were unacceptable because of no ceiling on funds and no criteria for determining causality between unemployment and the shortage of fuels.

Secretary Simon also indicated that in light of the administration's plans to submit windfall profits legislative proposals to the Congress that such provisions were unnecessary at this time in the Energy Emergency Act. Further, he stated that the windfall profit section would create such uncertainty in the industry that investments would not be made to secure additional energy supplies and that the present shortage would be seriously magnified.

Secretary Simon in fact went on at some length about the problems with all three of the provisions he mentioned.

He was thanked for presenting his views and the conferees returned to the conference room to reconvene the conference.

What kind of a response does the conference report reflect?

Congressional disapproval procedures: No change.

Windfall profits provisions: No meaningful change.

At least $500,000,000 of taxpayers' money was authorized for the next 6-months period to compensate the unemployed whose jobs were lost due to the energy crisis.

What standards were imposed to determine the causal connections between the loss of employment and the energy crisis? None.

Theoretically anyone unemployed would be eligible.

Regarding the temporary conservation authority requested by Secretary Simon the Senate conferees voted to give him most of what was requested. This was due in large part to the outstanding leadership of the Senator from Maine (Mr. MUSKIE) and the Senator from Tennessee (Mr. BAKER). Both are to be praised for their statesmanship. The other Senate conferees who voted to support the Muskie motion deserve much cerdit for their understanding of the problem and willingness to act responsibly.

Section 103(d) requires submission of budget requests to the Congress before submission to the President. This is just another attempt to deny the administration the authority it needs to do its job. This section appears to be politically motivated and without a useful or constructive purpose.

Section 124 requires submission by industry of energy reserves and other energy data to the Federal Government. This data applies to reserves both in the United States and elsewhere in the world. The data must be made available to the public. The exception is for proprietary data. In this case the proprietary data on energy must be made available to FEA. Interior, Justice, the FTC, GAO and to any congressional committee chairman which requests it.

The two most obvious faults with this section reiate to international operations and to antitrust violations domestically.

By requiring that all data be made public the effect is to make available to foreign oil-producing countries data about U.S. companies doing business there. With such data foreign oil-producing countries can acquire more effective leverage to raise prices at the expense of the American consumer. Clearly this section penalizes the American consumer.

Additionally in the domestic area it almost guarantees leaks of proprietary data. It allows companies in the energy industry to acquire data about their competitors. This can only lead to monopolizing.

Mr. President, this section is the clearest invitaiton to violate the antitrust laws the Congress has ever had before it. It affects big oil companies and little independent companies too. It is a grossly impossible provision.

There are other problems with the bill too.

Let me say at this time that the antitrust provisions and lack of conflict of interest provisions make it nearly impossible for the administration to work cooperatively with the industry.

The dealer day in court provisions will generate a host of lawsuits while solving nothing.

The windfall profits section, earlier discussed should be discussed at length. I would like to make six points in this regard.

First. Energy supply and demand. There is a correlation between energy use and economic growth. The maintenance of a desirable rate of economic growth in the United States is contingent on the availability of secure supplies of energy. Energy consumption is projected to increase by 50 percent in the 1970's. Oil and gas are expected to provide for about 75 percent of that energy requirement. The time lag between the commencement of the search for new oil and gas reserves and their production once discovered makes it urgent to begin now to improve our energy self-sufficiency.

Second. Capital requirements. In the 1960's total expenditures by the petroleum industry for domestic exploration and development averaged $5 billion annually. The current annual level of such expenditures is approximately $7 billion and will be required to increase to about $10 billion for 1975 and $20 billion for 1980. Many billions of dollars more will be required to expand refining capacity and distribution facilities.

Third. Profitability. The fundamental measure of the earnings of an enterprise is not the total dollars earned—profits—but the relationship of earnings to capital invested—profitability. For the 20-year period 1952–71 the average rate of return on net worth for the oil companies included in the Chase Manhattan compilation averaged 11.9 percent compared to 12.2 percent for all other manufacturing companies. In 1972 the rate of return disparity was even greater and was adverse to the petroleum industry. Both profits and profitability of the high-risk, capital-intensive petroleum industry must improve if the industry is to raise the capital required to find and develop new oil and gas reserves.

Fourth. Economic impact of section 117. Section 117 of the House passed bill, adopted by the conference, would impose a profit limitation with a 1967–71 base period. This would result in a reduced return on capital investment. Different economic conditions existed in the base period from those currently existing. The unrealistic profit ceiling would compel the industry to curtail operations so as to not exceed the ceiling and future investment would be discouraged. Energy problems would be intensified and prolonged. The petroleum shortfall would be increased immediately. The "ripple" effect would pervade the entire economy.

Fifth. Administrative problems. The recordkeeping problems under section 117 would be horrendous. Business decisionmaking would be brought to a standstill because of uncertainties over pricing policies. Litigation would be inevitable and extensive. The base period

measurement of "the average profit obtained by all sellers" would be a totally impractical concept resulting in arbitrary standards. The Renegotiation Board does not have the capability to administer this program and the Board's effectiveness in dealing with defense contracts would be impaired. Administratively, the provision would create enormous Government and industry bureaucracies engaged in a chaotic exercise in regulatory futility. Government regulation of natural gas prices has in substantial measure precipitated the shortage of that commodity.

Sixth. Substantive problems. Section 117 does not make clear what the impact of worldwide operations would be on profit determinations in the base period and in the current period. Moreover, the provision would apparently impose an absolute ceiling on profits instead of a rate of return measurement. The application of the "windfall" test would be on an individual sales basis product by product and would tend to reward inefficiency. Any resolution of these problems would be certain to compound inequities, result in unequal treatment, and impair competition. The section directs the President to prevent "windfall profits" in the first paragraph of the provision and then devotes the several remaining paragraphs to directing the Renegotiation Board to do what the provision impliedly assumes the President will not do. This duality of responsibility is complex, burdensome, and needless. The fact that hearings were not held on the section has contributed to its conceptual inadequacies and its unworkability.

The plethora of study provisions on other matters would impose a costly, duplicative, and unnecessary burden on the administration, which should be "taking action" not "making studies" to solve the energy crisis.

There are other provisions, too, which make little sense. But let me emphasize one which is as important as nearly all others. The congressional review procedures in this legislation are unconstitutional on their face.

For these and other reasons the President would be entirely justified in vetoing this legislation. But if he does not and chooses instead to act in good faith to impose conservation measures needed today in order to get this Nation through the winter without excessive hardships, it would, in my opinion, be the heighth of arrogance and irresponsibility for the Congress to nullify by disapproval the actions he will have taken.

The Congress must either decide or delegate. We cannot have it both ways.

Mr. President, I cannot recommend to my colleagues that they vote to support this bill. The bill should be recommended to conference.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. HANSEN. Mr. President, because my colleagues were not present at the marathon conference on the emergency bill, I would like to take a few moments to supplement the very accurate and comprehensive statement made by the Senator from Arizona (Mr. FANNIN), with whom I had the pleasure to serve on the conference. Before my colleagues cast their vote, and before discussing the merits of many of the bill's provisions, I would first like to discuss the implicit dimensions of the conference and the bill.

Mr. President, instead of choosing to come to grips with the critical energy shortage in this country in a rational and constructive way, a separate alternative was chosen. Without a scintilla of hyperbole, I feel it is safe to say that what preceded the conference report could best be characterized as a high stakes political poker game. The chips that were used by the poker players just happen to be the welfare of the entire American people for the duration of the winter. Whether the American people would be cold or not, with jobs or unemployed, seemed to be irrelevant to the objectives of the game that was played.

I would like to take a minute to describe the game that was played. At the outset it was recognized that there is not enough fuel to go around, and that many will have to do without or with less. There was much rhetoric about the need for the Congress to assert its constitutional prerogative and establish a definitive energy policy for the administration to carry out. But no one knew what that policy should be. Few felt personally competent to delineate such a policy. Few desired to be held responsible for setting definitive policy which could not or would not solve the energy problem.

So instead an attempt was made to shift the blame from the Congress to others. Not surprisingly, the blame and responsibility were shifted to the administration and to the energy industry of the United States.

Had merely the blame and responsibility been so shifted, the least that could have been said is that the legislators chose a cowardly way out. The best that could have been said is that the hot energy football had been punted down to the White House. The administration asked for the responsibility and volunteered to take the blame if the responsibility were unsuccessfully executed.

In a moment I will say more about administration willingness to take the responsibility and the blame.

Returning, however, to the issue of what was done instead, let me say that the legislators chose a different alternative, and that was to assign the administration responsibility for solving the energy crisis without delegating the authority to do the job. What was delegated was a three-tiered pagoda of uncertainty, confusion, and delay. The administration was told that it could implement rationing and conservation programs which would be effective upon their promulgation, but that they would be revocable by a simple resolution of disapproval passed by either House of the Congress within 15 legislative days following the convening of the 2d session of the 93d Congress.

And what would be the standards upon which such rationing and conservation programs would be based? With respect to rationing, the administration was told that it had to exhaust all other remedies before instituting a rationing program, and that an express finding must be made of the impossibility of existing authority to solve the energy shortage before rationing could be implemented. The priorities to be adopted in both rationing and conservation programs were to be those contained in the Emergency Petroleum Allocation Act of 1973, but that such programs "shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate against users." That additional proviso seemed intended to be an express invitation for 200 million Americans individually or collectively to file lawsuits against the administration on the basis that someone else got more fuel than they did.

Further, Mr. President, not only is the Congress to be permitted to disapprove of such plans instituted by the administration within the next month, but also the Congress is to be given an opportunity to disapprove parts of such plans. Such a procedure is clearly unconstitutional on its face.

One might ask what is the effect of such an arrangement on the public's willingness to comply. The answer is simple. The arrangement merely encourages the public not to comply by extending an invitation to the public to seek congressional disapproval of any plan or parts of any plan instituted by the administration for the conservation or distribution of fuel.

Returning now to what the administration desired, when the President learned about the rapid breaking developments taking place in the conference he called the leaders of the conference on both sides of the aisle to express his concern about the bill, including the possible necessity of a veto. He also indicated a willingness to work out a reasonable compromise with the Congress. He directed that William Simon meet with the conferees, if that would be acceptable to the conferees, and state his case. The leadership of the conference agreed to the meeting. The conference was recessed and most of the conferees moved to an adjacent room in which Mr. Simon outlined the three most essential concerns of the administration. They were that the administration be given the authority to institute rationing or conservation plans which would be effective upon their implementation without the 15-day congressional approval procedure. Mr. Simon was asked what programs he intended to implement if given such authority, and he wrote them down. They were later made known to all conferees. Second, Mr. Simon indicated that the windfall profits rebate section of the House bill was unacceptable in that it would cause great disruptions to the economy and threaten to further aggravate the already critically short fuel supply situation. Third, Mr. Simon sought that the unemployment compensation provisions be stricken because the criteria determining eligibility for unemployment compensation as a result of the energy

crisis were too vague to be implemented. The meeting was adjourned and the conferees returned to resume the conference. None of Mr. Simon's requests were respected.

Let me say, however, that the Senate conferees voted to give Mr. Simon most of the emergency authority he requested. The decision of the Senate conferees is largely a result of the impeccable statesmanship of the Senator from Maine (Mr. MUSKIE) and the Senator from Tennessee (Mr. BAKER). The Senator from Maine, in a most eloquent and sobering plea, indicated that many of the people in his northern State of Maine, and elsewhere in other cold regions of the country, would suffer grave harm unless Mr. Simon were given the authority he requested. He correctly indicated that unless substantial amounts of fuel were conserved between now and the time the Senate reconvenes near the end of January, there would not be enough fuel to last for the duration of the winter in his part of the country.

The Senator from Maine (Mr. MUSKIE) pointed out that January is the cold month of the year for his State and that if we are going to have enough fuel to get through this coming year to meet the emergency that has been brought about by all the elements that have contributed to this crisis in which this country finds itself, it was necessary to start now, that we had to take those conservation steps now in order to save enough fuel to get through the rest of the year.

It was on his motion that the Senate conferees voted to give the administration virtually all of the authority it needed for taking vital actions to deal with the energy shortage this winter.

Much credit is also due to the Senator from Tennessee (Mr. BAKER). He stated that what is at stake is the welfare of the people of this Nation, that what is called for is statesmanship in dealing with what is perhaps the most critical problem facing the Nation at this time. He pleaded with the conferees that they temporarily put aside partisan concerns and fulfill constitutional responsibility in providing for the people of the United States a mechanism whereby the administration could cope with the critical energy shortages to which the country is being subjected this winter.

All but one of the Senate conferees voted to approve the motion of the Senator from Maine. The House conferees by a slim majority chose instead to punish the administration by placing it in a situation in which it would be damned no matter what action it took.

Turning now to the windfall profits issue, this is the punishment imposed upon the industry which is attempting to supply the fuel for America's needs. In essence, the windfall profit provision provides that any person who feels he has paid too much for fuel may sue for a rebate on that part of the price which represents a windfall profit. The energy industry is burdened with the highest capital costs in its entire history. That capital is needed to be plowed back into the ground in a diligent and continuous search for new energy.

Mr. BARTLETT. Mr. President, will the Senator from Wyoming yield?

Mr. HANSEN. I yield.

Mr. BARTLETT. Senator, in the approaches that have been taken to solve the energy crisis, do you think there has been adequate attention given to that side of the supply and demand equation—the positive side, the supply side?

Mr. HANSEN. I would say to my good friend from Oklahoma that had it not been for his earlier effort in getting the stripper well amendment attached to the Alaska pipeline bill, and in consideration of the Alaskan pipeline bill itself, those two measures, the stripper well amendment and passage of the Alaska pipeline bill, in my judgment, constitute the only positive action of any real significance that this Congress so far has taken to address itself to the problem of supply.

I share the Senator's feelings that we have not done very much about supply. Does that respond to the Senator's question?

Mr. BARTLETT. Yes. I should like to ask the Senator, in approaching the problem we have of sufficient supplies, is it not going to be essential to increase the supplies of the conventional fossil fuels such as coal, oil and gas; and is it not essential for the east coast and the upper Midwest to have additional supplies of oil and gas, and that the only way we can achieve this is to do more drilling, which means that there needs to be additional incentive, which means that the roadblocks need to be eliminated such as the inadequate supply of rigs, the insufficient supply of tubular goods, drill pipe, and so forth?

Are not some of these things necessary for an energy policy that will really solve the problem, so that we are not completely dependent on foreign oil, and if we do reach and achieve the status of some independence, then we can supplement our domestic supply with foreign shipments that will be priced at a much more reasonable level. But if we are completely insufficient and are dependent upon foreign supplies, we then do not have the opportunity of negotiating a reasonable price so far as foreign imports are concerned.

Is there not just as much need today to start right away with an all-out effort in all directions to increase supplies, just as much as it is for every American citizen to set his thermostat at 68 and to reduce the speed of his car and not to take unnecessary trips, and that sort of thing?

Mr. HANSEN. I would respond to the distinguished Senator from Oklahoma by saying that long before he became a Member of the Senate, as Governor of the great State of Oklahoma, he addressed this situation very clearly and unequivocally on a number of occasions. He recognized then, as he does now, that we live in a nation that is presently 78-percent dependent for all its energy upon oil and natural gas. We do have other sources of energy in the United States, and we are fortunate that that is true. We have enormous coal reserves, probably more coal, by some estimates, than is contained in all the rest of the world. We have oil shale deposits that have been estimated to be capable of yielding as much as 1.8 trillion barrels of shale oil. In addition, we are blessed to have huge amounts of uranium in the United States.

But, as the Senator from Oklahoma well knows, being dependent for our energy supply now to the extent of 78 percent on oil and natural gas, there is no way in the short run, in the short fall, that we can come even close to meeting our energy requirements without taking precisely the steps that have been called for on many occasions by the Senator from Oklahoma. He is quite right. And we have been falling behind, as he well knows.

I ask the Senator from Oklahoma about the drilling activity. What are the facts about drilling? What about incentive? Has there been a diminution in the number of wells drilled and completed in this country? Has the amount of oil and gas we use been going up at the same time that drilling activity has been declining?

Mr. BARTLETT. The figures, very roughly, are that since 1956, we have decreased our drilling in this country by one-half, while the demand has doubled. So if we were to start today and wanted to achieve the same rate of drilling to demand ratio which was achieved in 1956, we would have to increase our number of wells by 400 percent. Our current rate of drilling indicates that we are only up about 15 percent over last year. Last year it was up about that much over 1971, which was the low point. As our drilling declined during that period of 1956 to 1971, we had a comparable decline in reserves of both oil and gas.

I noted yesterday what the price situation was during the period of 1957 to 1969, a period of 13 years. The price started out in that period at $3.09 and then declined, on a rather uneven but saucer-shaped line, until, for the 13th year of that period, in 1969, it was back to $3.09. These are constant dollars.

So this meant, with the large increases in the price of steel, large increases in labor, and so forth, that the net profit to an independent producer had declined rather significantly.

Then, in 1969, Congress, in its wisdom, attached to the tax bill a reduction in the depletion allowance which, at the end of this plateau in price, increased the costs by increasing the taxes of the independents as well as the other companies, to the extent of $500 million; hence, reduced the amount of exploration at that time by that amount.

The reason I am tracing this a little is that this is a part of the reason that right now the total oil industry has very little resiliency. In other words, it has very little capability of expansion. So that as we have this rather modest increase of 15 percent in the number of wells drilled over last year, already a shortage of rigs is appearing. I understand that all but about 20 rigs are currently operating, which means that they are moving from one location to another. We have a

shortage of drill pipe for rigs, and some of them are using used drill pipe that probably should not be used. Some producers are finding that they have difficulty in obtaining pipe for completions. A certain amount of hoarding is going on that is creating part of the problem. Nonetheless, there is a great need for more tubular goods to be produced and more rigs to be constructed and more drill pipe, tools, and so forth.

As we look into this problem, we see that when the dollar was devalued the last time, this Nation became overnight an exporter of oil country tubular goods; whereas, up to that point, it had been an importer of what was often referred to as cheap foreign pipe—the same quality, but less expensive. We also became overnight incapable of importing pipe because of price controls on the distributors of that pipe in this country.

Then we found, as we looked further into the problem of pipe production, that the profits of the steel companies in plate which is used in large quantities by the manufacturers of automobiles was higher than that of tubular goods; hence, the tendency and the inclination and the profit motive for the steel producers to put as much of their steel into plate as they could, rather than into tubular goods.

Then we found, in looking further, that during that period we relied to a great extent on the inexpensive foreign pipe; that the steel companies saw fit to shut down some of the marginal rolling mills they had because they could not compete on a price basis, and dismantled them, junked them. So that our rolling capacity today is much less than it was at the time of 1956, when we operated twice as many rigs and drilled twice as many wells.

So we had a problem of controlled prices in the steel business that was also affecting very directly the ability of the oil industry and the gas industry to increase their activities to find more oil and gas and then to develop it.

It seems to me, too, that people should begin to realize other problems that are definitely on the horizon; in fact they are very visible in the oil industry today, and that is the shortage of manpower. The small number of young people in the oil industry is rather apparent to anyone who attends any meetings of the independents. There is a very sharp line agewise in attendance. If I were advising a young person where I think he would have a great future, it would be in the energy industry because of the expansions that must take place for this Nation to face up to its responsibilities. There is a significant shortage of geological engineers, petroleum engineers, drilling crews, and all the service people connected with the oil industry. This is going to take time, and the colleges and universities must address themselves to this problem in order to develop as quickly as they can in a few years competent people to take care of the various important jobs in the energy industry. This takes some time. In fact, everything I am very familiar with in the energy industry has some leadtime and it is because of this leadtime that I think it is much more important for us to get off to a healthy hard-hitting start now rather than postponing the prices and be further behind, in addition.

Mr. HANSEN. Mr. President, will the Senator yield momentarily for a unanimous-consent agreement without losing his right to the floor?

Mr. BARTLETT. I yield.

AMENDMENT OF FEDERAL-AID HIGHWAY ACT OF 1973

Mr. WILLIAMS. Mr. President, I ask that the Chair lay before the Senate a message from the House on H.R. 10511.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree the amendments of the Senate to the bill (H.R. 10511) entitled "An Act to amend section 164 of the Federal-Aid Highway Act of 1973 relating to financial assistance agreements", with the following amendments:

On page 3 of the Senate engrossed amendments, strike out lines 7 through 15, inclusive.

On page 3 of the Senate engrossed amendments, strike out [Sec. 3.], and insert: "Sec. 2."

Resolved, That the House agree to the amendment of Senate to the title of the bill.

CHARTER BUS

Mr. BAKER. Mr. President, I wish to express my concern over the adoption of this legislation. I will not object to passage of this bill, for I recognize that the amendments to the Urban Mass Transportation Act are desirable to enable many communities to move forward in purchasing mass-transit buses.

But, when we return next month, I consider it important that language similar to that adopted by the Senate in an earlier version of this bill be enacted. It was necessary then, and it is necessary now, to facilitate the operation of an effective mass transit program across the Nation.

This bill, by legislating only on the Urban Mass Transportation Act, creates a double standard in consideration of grants for the purchase of buses with Federal funds. With passage of this bill, a community would confront differing standards in seeking an UMTA grant for buses, compared with a request for bus purchases out of the highway trust fund.

When this bill previously was before the Senate, the distinguished Senator from Texas (Mr. BENTSEN) added an amendment that would make an identical charter-bus test for grants under either the UMTA and highway programs. I believe that was a sound and reasonable amendment. I supported it.

Now, the House has returned the bill without the Bentsen amendment.

To me, the measure before us is in conflict with the action of Congress earlier this year when it adopted the Muskie-Baker amendment that opened a portion of the highway trust fund for mass transit expenditures.

As early as 1969, the distinguished chairman of the Public Works Committee (Mr. RANDOLPH) proposed that funds from the highway trust fund be available for the purchase of buses on the very logical and reasonable basis that use of more mass-transit buses would make our highway system more productive.

My Senate colleagues are well aware of the important changes adopted earlier this year in Public Law 93–87. For the first time, money out of the highway trust fund will be available for use for various mass-transit purposes. This proved to be particularly important in view of the national energy shortage.

Public Law 93–87 recognized the need to create a parallel test for bus purchases under either the UMTA or Highway Acts. Section 142(j) of title 23 of the code, added this year, states that "the provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply" in implementing sections of title 23 that permit the acquisition of buses and subway systems.

By adding a new subsection in the UMTA Act, this bill institutes a double standard which will inhibit local agencies in choosing to use highway funds for the purchase of buses.

Mr. President, I do not believe this bill's approach is wise and I would hope that my colleagues recognize the difficulties it raises.

Following is an explanation of the differing provisions that would be in the law following enactment of this version of H.R. 10511.

The language of the UMTA act would now read:

"(f) No federal financial assistance under this Act may be provided for the purchase of buses unless as a condition of such assistance the applicant or any public body receiving assistance for the purchase of buses under this Act or any publicly owned operator receiving such assistance shall as a condition of such assistance enter into an agreement with the Secretary that such public body, or any operator of mass transportation for the public body, shall not engage in charter bus operations outside of the urban area within which it provides regularly scheduled mass transportation service, except as provided in the agreement authorized by this subsection. Such agreement shall provide for fair and equitable arrangements, appropriate in the judgment of the Secretary, to assure that the financial assistance granted under this Act will not enable public bodies and publicly and privately owned operators for public bodies to foreclose private operators from the intercity charter bus industry where such operators are willing and able to provide such service. In addition to any other remedies specified in the agreements, the Secretary shall have the authority to bar a grantee or operator from the receipt of further financial assistance for mass transportation facilities and equipment where he determines that there has been a continuing pattern of violations of the terms of the agreement. Upon receiving a complaint regarding an alleged violation, the Secretary shall investigate and shall determine whether a violation has occurred. Upon determination that a violation has occurred, he shall take appropriate action to correct the violation under the terms and conditions of the agreement.".

The Bentsen amendment would have extended that language to the purchase of buses under the Federal Aid Highway Act.

With the Bentsen amendment deleted, this bill leaves existing law in place, as it relates to the highway trust fund:

SEC. 164. (a) No Federal financial assistance shall be provided under (1) subsection (a) or (c) of section 142, title 23, United States Code, (2) paragraph (4) of subsection (e) of section 103, title 23, United States Code, or (3) the Urban Mass Transportation Act of 1964, for the purchase of buses to any applicant for such assistance unless such applicant and the Secretary of Transportation shall have first entered into an agreement that such applicant will not engage in charter bus operations in competition with private bus operators outside of the area within which such applicant provides regularly scheduled mass transportation service. A violation of such agreement shall bar such applicant from receiving any other Federal financial assistance under those provisions of law referred to in clauses (1), (2), and (3) of this subsection.

Mr. WILLIAMS. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. WILLIAMS. I yield.

Mr. HANSEN. It is my understanding that these amendments have been cleared with this side of the aisle.

Mr. WILLIAMS. They have been, I assure the Senator.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, national, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. I yield to the Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I wish to read for the RECORD a letter to the editor which was published in the Washington Star-News yesterday, December 20, 1973:

. . . AND OIL PROFITS

SIR: In a recent column, Carl T. Rowan quoted some figures from the AFL–CIO News, and used them to conclude that the oil companies are making exorbitant profits at the expense of other Americans caught up in the nation's mounting energy problems.

Though such conclusions are largely a matter of how one chooses to interpret and report financial figures, Rowan did a disservice to your readers in making it appear that the oil industry is reaping a bonanza. The fact is that the oil earnings for the first nine months merely reflect a generally improved profit picture in most segments of the economy. To segregate oil, as Rowan did, presents a distorted picture.

Profit dollars become meaningful only when measured against equity, or investment. Even with its improved earnings, the oil industry's return on equity for the first nine months still was only 13.2 percent, according to figures developed by the Commerce Department.

A few comparisons with other industries help put oil industry earnings in perspective: For the same period, appliances reported a 16.5 percent return on equity, automotive 17.5, buildings materials as 14.5, chemicals 14.0, drugs 19.9, electronics 15.2, food 13.0, instruments 15.0, office equipment and computers 16.6, and publishing 13.9. About the only industry with a rate of return lower than oil's were the railroads with 6.1 percent—and many of the nation's railroads face bankruptcy.

A tremendous share of oil industry earnings must be, and are being, invested in efforts to find, develop, transport and process new oil and gas. So enormous will be that cost—up to $150 billion between now and 1980—that from one-quarter to one-third of the required capital must be generated from outside sources. Tenders, in common with investors, look for companies with favorable profits and good rates of return. Articles like Rowan's, which tend to confuse rather than educate the public, serve only to delay the day when our nation will once again be independent of foreign influences to satisfy the energy demands of a dynamic economy.

HOWARD PYLE III,
Washington Representative Standard Oil Co. (Indiana).

Mr. HANSEN. Mr. President, will the Senator yield at that point?

Mr. BARTLETT. I yield.

Mr. HANSEN. I think it is very relevant to an understanding of the various sections of the bill because in the press and on the electronic media for a number of months now we have been subjected to a continuing barrage of statements that the oil companies are making unconscionable windfall profits, that they are many, many times higher than last year, and leaving the impression in minds of most Americans that prices have gone through the roof and that profits have even surpassed profits for last year.

Is it not a matter of fact that last year the oil industry experienced the lowest profit year it had had in a 12-year time and that many of the companies had a very modest profit?

If a major oil company had a profit of only 5 percent last year on its investment money and this first quarter profits were up to 9 percent, it could be said there had been an 80-percent increase in profits. Yet an 80-percent increase in profits means, in percentages, only shifting from 5 percent to 9 percent. I would ask my friend from Oklahoma if this is not rather typical of the kind of figuring that has gone into news and television reports about all company profits?

Mr. BARTLETT. Yes, I agree with the distinguished Senator. He has given a vivid example. In a 10-year period up to 1972 oil company profits were under those of the average manufacturer.

The recent profits of the integrated companies for the last 9 months represent primarily their profits from foreign operations in the Middle East, and hence are not showing the picture of the profit situation for the independent who does most of his drilling and development for oil in this country.

I find it interesting to note that in the first 9 months of 1973, as compared with 1972, the New York Times experienced an earnings growth of 91 percent, the Washington Post 57 percent, ABC, 45 percent. This organization had a return on equity in excess of 15 percent, and the return of CBS exceeded 20 percent.

I do not cite that as a bad example. I think profits still must be a good word in this country if we are going to have a viable free enterprise system. I do think that competition must exist in a very real and aggressive way, and we have found that our companies around the world are envied because of their capabilities.

I know it is often said that the oil industry does not have this competitive side to it. From my own experience and observations, I know of no more competitive industry than the oil and gas exploration industry because, in the first place, the great majority of the wells are drilled not by the largest 30. In fact, 79 percent are drilled by others than the 30 largest.

When you compare the impact of that power concentration in other important segments of our American industry, when we see the power concentration in steel, in autos, in aircraft, in computers, where we are talking about power concentrations of about 80 percent, yet in the oil and gas exploration industry, the 30 largest have a very small part of the industry and contribute only 21 percent of the wells drilled.

Mr. HANSEN. Would the Senator from Oklahoma yield momentarily in order that I might permit the distinguished Senator from West Virginia to make a unanimous-consent request?

Mr. BARTLETT. I yield.

Mr. RANDOLPH. Mr. President, I appreciate the courtesy of my colleague from Wyoming.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate Nos. 1, 2, 3, 4, 5, 7, 8, 9, 11, and 12 to the bill (H.R. 11372) to conserve energy on the Nation's highways; that the House had agreed to the amendments of the Senate Nos. 6, 10, 13, 14, and 16 to the bill, severally with an amendment, in which it requested the concurrence of the Senate; and that the House had disagreed to the amendment of the Senate No. 15 to the bill.

CONSERVATION OF ENERGY ON NATION'S HIGHWAYS

Mr. RANDOLPH. Mr. President, I ask the Chair to lay before the Senate the message from the House on H.R. 11372, an act to conserve energy on the Nation's highways.

The PRESIDING OFFICER laid before the Senate the following message from the House:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, 7, 8, 9, 11, and 12 to the bill (H.R. 11372) entitled "An Act to conserve energy on the Nation's Highways."

Resolved, That the House agree to the amendment of the Senate numbered 6 to the aforesaid bill, with an amendment as follows:

Strike out the period at the end of the

Senate amendment, and insert: ", and (2) a speed limit for all types of motor vehicles other than 55 miles per hour on any portion of any public highway within its jurisdiction of four or more traffic lanes, the opposing lanes of which are physically separated by means other than striping, which portion of highway had a speed limit for all types of motor vehicles of 55 miles, or more, per hour on November 1, 1973, and (3) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly using such portion of highway, if on vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clauses (2) and (3) of this section shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway".

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill, with an amendment as follows:

In lieu of the matter proposed to be inserted by the said amendment, insert:

"(d) Notwithstanding the provisions of section 120 of title 23, United States Code, sums apportioned to any State under section 104 of title 23, United States Code, shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973."

Resolved, That the House agree to the amendment of the Senate numbered 13 to the aforesaid bill, with an amendment as follows: In lieu of the matter proposed to be inserted by the said amendment, insert:

"(f) The requirements of this section shall be deemed complied with by administrative action lawfully taken by the Governor or other appropriate State official that complies with this section."

Resolved, That the House agree to the amendment of the Senate numbered 14 to the aforesaid bill, with an amendment as follows: In lieu of the matter proposed to be inserted by the said amendment, insert:

"SEC. 3. (a) To conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary of Transportation is authorized to approve demonstration projects designed to encourage the use of carpools in urban areas.

"(b) Proposals shall be originated by local officials and submitted by the State in accordance with the provisions of section 105 (d) of title 23, United States Code. The Secretary of Transportation shall approve for funding those projects which offer reasonable prospects of achieving the objectives set forth in subsection (a) of this section.

"(c) A project may include, but not be limited to, such measures as systems for locating potential riders and informing them of convenient carpool opportunities, designating existing highways lanes as preferential carpool highway lanes or shared bus and carpool lanes, providing related traffic control devices, and designating existing publicly owned facilities for use as preferential parking for carpools.

"(d) A project authorized by this section shall be subject to, and carried out in accordance with all of the provisions of chapter 1 of title 23, United States Code, applicable to highway projects, except that the Federal share of such project shall be 90 per centum, the Federal share shall not exceed $1,000,000 for any single project, and only funds apportioned under section 104(b)(3) and (6) of such title shall be available to carry out projects authorized by this section. The Secretary shall not approve any project under this section after December 31, 1974.

"(e) The Secretary of Transportation shall conduct a full investigation of the effectiveness of measures employed in the demonstration projects authorized by subsection (a) of this section. In addition, he shall, in cooperation with the Internal Revenue Service, the Environmental Protection Agency, and other appropriate Federal and State agencies, study other measures, including but not limited to tax and other economic incentives, which might lead to significant increases in carpool ridership in urban areas throughout the country, and shall identify any institutional or legal barriers to such measures and the costs and benefits of such measures. He shall report to the Congress not later than December 31, 1974, his findings, conclusions, and recommendations resulting from such investigation and study. Funds authorized to carry out section 307 of title 23, United States Code, are authorized to be used to carry out the investigation and study authorized by this subsection."

Resolved, That the House agree to the amendment of the Senate numbered 16 to the aforesaid bill, with an amendment as follows:

In the first line of the said amendment, strike out "SEC. 5.", and insert: "SEC. 4.".

SPEED LIMITATION OF 55 MILES AN HOUR WILL CONSERVE FUEL—FINAL ACTION TAKEN IN THE CONGRESS

Mr. RANDOLPH. Mr. President, in recent weeks the Congress has considered several measures intended to help accommodate our national life to the unique circumstances imposed by the energy shortage.

The crisis conditions which exist because of the unavailability of adequate supplies of fuel are imposing sacrifices on every segment of our society. We must make adjustments to assure that no one bears an unjust share of the burden.

The legislation before the Senate authorizes actions that will affect millions of Americans, but they also will result in substantial savings of gasoline.

The provisions were worked out with the House of Representatives and provide for the imposition of lower speed limits than are presently in effect on many of our highways. This measure requires States to set speed limits of 55 miles per hour on all highways of four or more lanes on which the traffic going in opposite directions is separated by a barrier, median strip or other physical means. This is required on all highways on which the speed limits were higher than 55 miles per hour before November 1, 1973.

On other highways, the States can establish whatever speed limits they desire, so long as they are not higher than 55.

Mr. President, I stress the fact that this bill imposes uniform speed limits on all types of vehicles using a four-lane divided highway. I believe it would be unwise to allow differential speed limits.

All of us concerned with the development of this legislation were acutely aware of the problems lower speed limits impose on the trucking industry. We did not feel, however, that dual speed limits were a practical answer to these problems.

There are serious questions of safety associated with a 2-tier system of speed limits. In addition, I am confident that there would be a strong and adverse public reaction to a speed limit system that seemed to require greater sacrifice from car drivers than it did from truckers.

The prevalence of automobile use in this country is such that a feeling by private motorists that they were the victims of discrimination could result in an unwillingness to comply with other energy conservation measures.

Mr. President, our Subcommittee on Transportation conducted a hearing last week on the relationship of transportation to the energy crisis. A substantial portion of the testimony and of the discussion that followed dealt with speed limits. There was substantial support for uniformity.

This morning I received a letter from Governor Daniel J. Evans, Chairman of the National Governors' Conference, transmitting the endorsement of that body of State executives for uniform speed limits.

Mr. President, I ask unanimous consent that Governor Evans' letter be printed in the RECORD at this point.

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

STATE OF WASHINGTON,
OFFICE OF THE GOVERNOR,
Olympia, Wash., December 13, 1973.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The National Governors' Conference, virtually without dissent, endorses a uniform national speed limit for all highways. We are opposed to a speed limit which permits trucks to travel lawfully at speeds in excess of those permitted for passenger cars because this would create a serious safety hazard.

We do not take a position on the question of the specific rate but trust that it would be set at a point which best meets the target set for gasoline consumption assigned to this initiative.

We would also urge that there be a sufficient time permitted to States to revise statutes, where needed, to conform to such national standards.

The Governors are anxious to help make certain that the States play an effective role in securing a sound balance between energy supply and demand.

Sincerely,

DANIEL J. EVANS, *Chairman.*

Mr. RANDOLPH. Mr. President, we are acting on legislation incorporating proposals I made 6 months ago. At that time I proposed an amendment to the Federal-aid Highway Act of 1973 which was then being considered by a Senate-House conference. The idea met with widespread resistance and was not accepted.

On June 4, I offered an amendment to the fuel allocation bill (S. 1571) expressing the sense of Congress that lower speed limits should be imposed as a fuel-conservation measure. This amendment was accepted but was subsequently deleted from the bill in conference.

Six months ago, and in fact much earlier, it was apparent that there would be a serious shortage of fuels. Had we acted then, the gasoline shortage today

would be somewhat less severe, and the Congress would not be faced with the necessity for action in a crisis atmosphere.

Mr. President, the bill before the Senate authorizes temporary actions to cope with the current fuel shortage. Its provisions will expire on June 30, 1975, unless the present emergency is declared ended prior to that time.

This bill also authorizes the Secretary of Transportation to participate in demonstration programs to encourage and facilitate the use of carpools to save gasoline.

This program was originally contained in a bill introduced by Senator DOMENICI. It was adopted by the Committee on Public Works as an amendment to the speed limit bill and comes before us now in a compromise form acceptable to the House of Representatives.

This section of the bill authorizes the use of urban system and urban extension highway funds for car pool programs. It permits the expenditure of up to $1 million for each car pool project, whether it be limited to a single urban area or is applicable statewide.

The major change in the car pool provision makes it a demonstration program to be in effect until December 31, 1974.

Mr. President, lower speed limits can contribute materially to improving our gasoline supply situation. Likewise, extension car pooling can induce further savings. This bill is an important part of our total response to the energy crisis. I urge its passage.

Mr. BAKER. Mr. President, I wish to express my support for the language of H.R. 11372, now before the Senate. The Senate passed an earlier version of this legislation on December 14, legislation that set a national maximum speed limit of 55 miles per hour.

Rather than go to conference on this legislation, the House earlier today passed a reamended version of H.R. 11372, a version that represented a compromise agreement between the House and Senate.

While the proposal before us departs in some ways from that passed by the Senate, I believe it adheres to the main provisions. For the benefit of my colleagues I would like to detail a few of the changes in an attempt to explain how they will be effective.

First, the earlier Senate version required that all roads in each State have speed limits no more than 55 miles per hour, on penalty of losing Federal-aid highway funds. Under the Senate version, a State could set a lower speed limit if it wished. The House version contained a mandatory requirement that speed limits be dropped to 55 miles per hour and no lower. The compromise in the present bill says that a State must set a 55 miles per hour speed limit on four lane highways in which the traffic going in opposite directions is physically divided by a barrier of some variety, if the speed limit for all vehicles using that stretch of highway was set at 55 miles per hour or higher on November 1, 1973.

This provision covers highways of four and more lanes separated by a grassy median area, guardrails, or other type of raised barrier. Multilane highways where traffic is separated only by striping or some similar marking, as well as highways of 2 or 3 lanes, are not affected by this mandatory requirement. In those cases the State could set a speed limit of 50 miles per hour or less, if it wished.

Frankly, I do not anticipate that many States will impose speed limits under 55 miles per hour on roads where the limit had been 55 miles per hour or higher 2 months ago but local conditions differ, and lower speeds may be desirable for either an energy conservation purpose or other reasons.

This bill also requires continued adherence on all other roads to uniform speed limits for all classes of vehicles—cars, trucks, and buses—if that stretch of highway had a uniform speed limit on November 1. The governor or other State officials would be free to alter the speed limit under their normal authority, but only to change it to another uniform limit for all types of vehicles.

It should be noted that all of this speed limit legislation is of a special character and expires no later than June 30, 1975. This Federal incursion upon the prerogatives of the States is designed to meet an emergency energy problem; it is not intended to be a precedent in any way for further Senate action.

Another section of the bill creates a carpool incentive program as developed within the Senate Committee on Public Works. This provision was suggested originally by the distinguished Senator from New Mexico (Mr. DOMENICI) and strongly supported by myself and other colleagues on the committee. The compromise version, already adopted by the House, will enable the States to seek immediate approval for carpool incentive programs that cost up to $1 million per project, whether that project, covers a single locality or several areas of the State. Money for such incentive programs would be taken out of the urban system and urban extension Federal-aid highway construction funds.

Because of the emergency character and need for this program, this authority will exist for a period of approximately 1 year, with the authority for approval of such carpool incentive programs by the Secretary of Transportation expiring after December 31, 1974.

It should be noted that this is essentially a "software" program within a construction program. This provision is designed to finance programs to match up persons for carpools through computers or other systems, carpool education and promotion programs, and the signing of exclusive carpool and bus/carpool lanes and special carpool parking areas. This section is not intended to finance construction of carpool lanes or parking lots, which can be accomplished under existing authorities in title 23 of the United States Code.

Mr. President, I believe this is basically sound legislation and that it will ameliorate the energy crisis facing our Nation.

I urge the adoption of H.R. 11372.

Mr. RANDOLPH. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. RANDOLPH. Mr. President, I move that the Senate recede from amendment No. 15 of the bill.

The motion was agreed to.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local State, national, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

Mr. BARTLETT. Mr. President, I will ask the Senator from Wyoming to yield further. I believe he has the floor.

Mr. HANSEN. I yield.

Mr. BARTLETT. What steps does the Senator consider absolutely essential that this Nation take in order to achieve a reasonable increase in our supplies of energy? I know it is not just one but many leads that can be taken. First let me ask whether there are any alternatives of which the Interior and Insular Affairs Committee is advised that are cheaper than current prices for the energy available. In other words, are there any alternatives that are not more expensive?

Mr. HANSEN. In response to the question by the Senator from Oklahoma, I would say that, in this Senator's opinion, there are no cheaper ways in which we could shore up our flagging energy supply than to give the industry encouragement that an increased price position would cause.

Recalling some testimony presented before at least one committee of the Congress, the chairman of the National Petroleum Council testified, I believe, to the effect that if we consider the return on investment in off-shore drilling in the Gulf of Mexico, in Northern Louisiana, and throughout the rest of the United States in recent months, that rate of return has been between 3.2 and 6.2 percent, which underscores the very fact that is being graphically addressed by the Senator from Oklahoma.

That is a very poor rate of return, and it is understandable why people who otherwise might be putting dollars into the drilling business are seeking other opportunities that they believe offer the prospect for a higher rate of return.

It accounts as well for the fact that our drilling activity has declined nearly half when we compare the year 1972 with the year 1956, and it helps explain the urgency of doing something more than what we are now doing, because during that same period of years, as the Senator has pointed out on many occasions, we in 1972 were using twice as

much oil and gas as we used back in 1956.

I would say that the Senator from Oklahoma was precisely right. We ought to give this extra encouragement to the industry. There is no better or cheaper way.

I would ask my friend from Oklahoma, is it not also true that the technology for converting oil shale into shale oil has been worked out to the degree now that, given a reasonable price rise in domestic crude produced today, it would follow that we might expect a greatly increased activity in the oil shale fields of America?

Would it seem reasonable to the Senator from Oklahoma that we could experience this intensified interest in oil shale if we just let the price of crude go up $2 or $3 a barrel?

Mr. BARTLETT. Yes; I certainly concur with my distinguished colleague from Wyoming.

I think one of the values of a free market is that, in addition to the producers trying to produce more of a product that goes up in price, they also have an incentive to develop other products or develop other ways of extracting the same product, such as oil from shale; but it takes a certain price to do it. I think, in addition to the legislation that this body has seen fit in its wisdom to pass, it will take a certain development of energy at a certain price to make it an economic reality. The price will differ with different products, but certainly shale oil from oil shale is one of the best opportunities, and one of the biggest and most available to the technological know-how of this country. But it still takes a price to free oil from the shale, because it is a more expensive operation than some other methods.

Mr. HANSEN. Would the Senator from Oklahoma yield for just a moment? I would like to yield to the distinguished senior Senator from West Virginia.

Mr. RANDOLPH. Mr. President, at this moment, under the leadership of the Senator from Wyoming, in colloquy with the Senator from Oklahoma, we are discussing the suggested use of oil shale to alleviate the fuels and energies shortages in this country.

As the two Senators have indicated, there are areas in the Rocky Mountain States and other regions of the West that contain tremendous resources of oil shale.

I recall my visits to Colorado in connection with energy research programs being carried on there. In the mid-forties, I also coauthored with the then Senator from Wyoming, Senator O'Mahoney a synthetic liquid fuels act.

At that time we were not interested in determining whether oil shale could be used as an energy source or whether coal could be processed into gasoline. Frankly we knew that we had a challenge in this country because we were engaged in World War II and German submarines were lurking off the Atlantic coast. That is why we were carrying on a research program on the use of oil shale and on the use of coal to make gasoline.

Just 30 years ago, on November 6, in company with Arthur Hyde, I flew from Morgantown, W. Va., to the Washington, D.C. National Airport in a single-engine Fairchild aircraft that was fueled with gasoline made from coal.

That was 30 years ago, I say to my knowledgeable friend, the Senator from Wyoming.

Mr. HANSEN. Mr. President, if the Senator would yield at that point, where did the coal from from? I am just curious.

Mr. RANDOLPH. The coal came from West Virginia. It was processed, however, at the Bureau of Mines Laboratory in Pittsburgh, Pa. So, we can give credit to those two States.

I recall that 170 miles of flying with some trepidation. As the Senator can well understand, we were coming across the Alleghenies on gasoline made from coal; at a time, very frankly, when it was generally felt that aircraft fuel must be processed from petroleum.

We were met at the National Airport by former Senator O'Mahoney, of the State of Wyoming. He gave much thought to the matter of synthetic fuels.

Later, we were to call for these projects such as oil shale. These technologies could have served as a backstop for what we are now experiencing. We knew then in the mid-forties that they would be needed to have energy self-sufficiency within the United States of America.

It does not do much good to talk about yesteryears; however, it is almost tragic to realize the apathy and the complacency which for so long have characterized not so much the American people but, frankly, the very doorstep of the administration over this period. This has been true whatever administration or political party has been in power and at the doorstep of Congress—whichever party might have been in power.

Through the years, we simply have taken for granted that our resources were going to be inexhaustible. We knew this was not so then, and we have since become increasingly aware that there is a very severe energy shortage.

In a very real sense—and I am not critical—we are moving on the conference report as adopted by the Senate and the House conferees on an Energy Emergency Act. I am not critical; each man has his own responsibility. But that conference report was signed by the conferees, we brought it to the Senate, and we should have been able to vote on its provisions; if necessary, striking 1 or 2, to secure the overall passage. This legislation has been brought from the conference after most careful consideration.

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

Mr. RANDOLPH. I yield.

Mr. HANSEN. I may point out that the Senator from West Virginia has been eminently fair in calling attention, on many occasions, to the profit figures of various industries throughout the country. It was he who first placed in the RECORD a list of profits that were experienced last year compared with those in the oil industry: some of the newspapers—some of the bigger ones in the East, which for the moment must remain nameless—as well as some of the TV networks and other industries in America.

I should like to compliment the Senator for his willingness, always, to state fairly and objectively what the facts are. I agree with him most enthusiastically, as I agreed with my good friend from Maine (Mr. MUSKIE) when he made the excellent comment he made in conference so long ago—was it only last night?—that we should look at some of the issues and decide what we really need to do and to get started on it now.

I salute my friend from West Virginia for his leadership in helping to bring about an understanding that I think is basic to an objective position that we now need to have if we are going to do the right thing for the country.

Mr. RANDOLPH. I appreciate the comments of the Senator and I shall not continue my colloquy longer. The distinguished Senator from Oklahoma (Mr. BARTLETT) was really in colloquy with the Senator from Wyoming.

Nevertheless, 30 years ago we had the knowledge, the know-how, and the expertise to process coal into gasoline. Yet 30 years later our country is not energy self-sufficient; but we have a coal supply adequate for 300 to 400 years. We had the capability to develop this resource along with other energy supplies for the benefit of the United States of America. It is rather tragic. I say to the distinguished Senator from Wyoming.

Mr. HANSEN. It certainly seems so to me.

I should like to ask my good friend from West Virginia and also the distinguished Senator from Oklahoma a question. Much criticism has been heaped upon the coal industry for having failed to anticipate what would be needed in the year 1973. Why has it not got on with the business of coal gasification?

Mr. RANDOLPH. And coal liquefaction?

Mr. HANSEN. And coal liquefaction? Why has it not moved in the area of magnetohydrodynamics, whereby coal could be directed or turned into energy. I am referring to the process of firing particles of coal through an electrical impulse field of some kind or other, which results in the generation of direct current electricity.

But I would ask my friend from West Virginia if the price of natural gas, in his judgment, had anything to do with discouraging the coal industry from committing the kind of dollars that many people think were necessary in order to get on with this job of developing the technology to a higher state of perfection than we now find it showing.

Mr. RANDOLPH. The Senator is correct. The price of new natural gas has been too low. Thus the exploration for natural gas could not go forward as fast as needed to meet demand.

We also understand that there are terrific costs of opening new coal mines in this country; what is the return on investment in a coal mine operation? Perhaps 2.5 percent to 4 percent.

Yet, when I think of the return on equity, let us say, in the appliance industry—in the last 9 months—it is 16.5 percent; in automobiles, 17.5 percent; in building material, 14.5 percent; in chemicals, 14 percent; in drugs, 19.9 percent;

in electronics, 15.2 percent; in food, 13 percent; in instruments, 15 percent; in office equipment and computers, 16.6 percent; and in publishing, 13.9 percent. Certainly a logical and very natural question, considering these situations before us, is where are the terrific investment going to come for the exploration for oil and gas and for the production of coal. The present situation is almost intolerable from the standpoint of expecting the necessary huge investments to be made. Meanwhile we have relied upon the importation of petroleum from countries in South America, North Africa, and the Middle East.

This is a situation which has not only been fraught with danger, but which has brought this country, frankly, almost to the brink of disaster. This is particularly true from the standpoint of operating our economy which should be built upon energy self-sufficiency.

It is my desire to support this conference report, even though there have been disagreements. I also believe we should act before the day is out. The country expects it to be done. The American people generally look to the Senate and the House of Representatives to do this job; and I do not believe that the President of the United States will veto what is done by Congress is this matter.

I appreciate the opportunity to engage in this colloquy with the Senator, and to point out the need to encourage the production of natural gas, the production of coal, and the production of oil, as well as the development of synthetic liquid fuels. There are many possibilities in this country as my colleague from Wyoming has mentioned.

We find ourselves in a tragic situation at the present time, because of our failure to come to grips with this problem as we should have done.

Mr. HANSEN. Mr. President, I thank my distinguished friend, the Senator from West Virginia, for his great help in bringing about a better and clearer understanding of what the facts are, hoping that it might result in our being able to make a sounder and clearer judgment in a matter that is of extreme concern to every American.

Mr. President, I was speaking before the Senator from Oklahoma and I engaged in colloquy about the fact that the oil industry now is being told that as prices go up, it will be faced with lawsuits seeking rebates. This is implicit in the bill we have before us.

Thus, the industry is now told that if prices go up it will be faced with lawsuits seeking rebates. Thus, the industry is put in the dilemma that if prices go up and, as a result, profits are reinvested in the search for new energy, it will be sued. Or, if prices do not rise, the industry will not have the capital it needs to reinvest in the search for more energy, and the industry will be blamed for failing to increase supply.

Thus, the industry is placed in a position that no matter what it does it will be damned. Mr. President, I ask my colleagues how they can avoid being fairly and properly blamed by the electorate if they cast their vote in favor of the conference report on the energy bill.

Mr. President, I think that in order to achieve a better understanding of what the facts are before us, I would like to read from an editorial which appeared in the Wall Street Journal of today. The editorial is entitled "Veto the Energy Bill," and it begins:

Sen. Henry Jackson says it would be "utter nonsense" to believe President Nixon might veto the emergency energy legislation that Congress has threshed out. After all, Congress is going home for the holidays and wouldn't be able to put together another bill until next year some time. Then where would Mr. Nixon be?

In the ideal position, it seems to us, surely he'd be better off without any bill at all than to put his signature to the package Congress has designed. The measure contains a few provisions that the administration's energy people would like to have, but none they can't do without. Mr. Nixon wouldn't be able to lower speed limits across the nation, but the states can do that and many of them have. It would give the President *de jure* authority to force oil refiners to produce less gasoline and more heating oil, but he already has *de facto* power to do so. At this stage of the game the oil companies know they had better do anything Energy Czar William Simon suggests that is humanly possible, or the full political wrath of Washington will be visited upon them.

The heart and soul of the Jackson legislation is its grant of authority to Mr. Nixon to ration gasoline. From past experience with such congressional generosity in dealing out power, Mr. Nixon must realize that once he accepts that authority he will be bulldozed into exercising it. The past experience, of course, was with wage-and-price controls. Once Congress gave Mr. Nixon the power to exercise those controls, it was no longer interested in holding federal spending and the Fed felt it could relax monetary policy. Although Mr. Nixon opposed use of controls and resisted for a long while, it was the only weapon he had, and he finally succumbed when the clamor for controls reached a fever pitch.

So too with Senator Jackson's energy bill, which has all the earmarks of a Trojan Horse that will force the nation into rationing. Once it delivers that authority to the President, Congress will show not the slightest interest in any alternatives to rationing that the President and his energy people have in mind. What's worse, the Jackson bill gives the President *unlimited* authority only when it comes to rationing.

Mr. BARTLETT. Mr. President, will the Senator from Wyoming yield?

Mr. HANSEN. I yield.

Mr. BARTLETT. Senator, on this whole energy area, am I correct that the price of gas is and has been for a long time one of the real problems of having sufficient incentive for sufficient drilling to provide the supplies? Has it not not only reduced the supplies of gas but because of its environmental desirability as a fuel and its low cost, based on the BTUs, has been such difficult competition to oil and to coal that it has tended to keep those prices down and hence those supplies down?

It seems to me that deregulation of natural gas is a vital claim. I am sure that each of us representing our own States tends to look at it solely from our own point of view, but in the case of the State of Oklahoma at the present time our intrastate price of gas is around 63 cents—it might be as high as 65 cents. We have had an adequate supply which has been a result of a significant increase in the drilling. One of our utilities has the second largest amount of reserves of natural gas of any utility in the country. Our position is that we would like to share this gas at the same price to other States through the interstate market but, of course, at the present time, this is impossible. Someone in another State who might be willing to pay the same price we pay ourselves legally, cannot do so.

But because of this situation of having gas in our State available, we have been attracting industry into the State, although from a selfish point of view one might take the position of favoring the status quo, but that does not solve the basic problem of energy for the entire country.

So it seems to me that the Buckley amendment, on which we voted the other day—and I am sorry that more Senators might not have heard the debate—was a way to provide additional gas at a free market price. Those utilities and those industries in those States wanting additional gas at this free market price, to pay it for new and additional gas only, and that the renegotiation of contracts provided in that bill can be committed only with the approval of the FPC, it seems to me that as I analyzed it from a distance of halfway across the country, the plight of the eastern seaboard of sufficient energies, I find some difficulty understanding the position of those who are reluctant to have a free market or to have additional supplies coming from this country.

I noticed an editorial in the Washington Post sometime ago that they plan to add to the gas available in Washington, gas processed from naphtha, which would be synthetic and would cost, available to the gas company in Washington, about $1.50 a thousand cubic feet.

This would increase the total amount available to the utility for distribution to the people in Washington by 10 percent.

I know that there is, in addition to the synthetic fuels, liquefied natural gas available by import from foreign countries—Algeria and others. I know that some of those in the Northeast have had contracts for the acquisition of liquefied natural gas, but the contracts have not been fulfilled.

But it seems to me that a comparison of the price of natural gas in this country shows it competes quite well with other sources, even including the importation of gas, if available, in additional quantities from Canada.

Mr. HANSEN. Mr. President, as I recall in recent months, and I do not know how far back, but this Senator's recollection is that according to the Federal Power Commission, before they made the first price adjustment, they recognized that it was costing more to carry on the exploration, the wildcatting, and the production activities on a 1,000 cubic feet basis, cost-wise, than a discoverer or a producer of natural gas could legally receive for that gas if it were committed to the typical interstate gas line. I ask my colleague if that is true?

Mr. BARTLETT. Yes, that is.

Mr. HANSEN. Is it not a fact that not too many months ago this unrealistic price that had been fixed by the Federal Power Commission and had not been changed so as to keep abreast of costs, resulted in a situation where there was absolutely no incentive for anyone to go out and try to discover a new gas well. Am I right about that?

Mr. BARTLETT. Yes. I would tell the distinguished Senator from Wyoming that he is eminently correct. I might mention that I have some figures before me showing the new gas commitments in the Peomian Basin from 1966–70.

For the year 1966, in the intrastate market, in Texas, 16.3 percent of the gas was committed intrastate, and 83.7 percent interstate, for a total commitment of 1 billion cubic feet or 178 trillion cubic feet.

In 1967, it was 21.8 percent intrastate, increasing and dropping in the interstate market to 78.2 percent.

A year later, 1968, it jumped to 87.2 percent in the intrastate market and 12.8 percent in the interstate market. The amount was 156 trillion cubic feet.

In 1969, it dropped slightly to 83.3 percent in the intrastate market, and interstate was 16.7 percent.

But for the first half of 1970, it went up to 90.9 percent in the intrastate market and 9.1 percent interstate, for 113.4 trillion cubic feet.

This means, of course, the point the Senator made, the realistic fact of life, that those who have the gas to sell are selling it to the person who pays him the higher price. The price is roughly, at least in our State, 53 cents compared to 22 or 23 cents.

But it seems to me that when we look at this from the consumers' point of view in the East and use the figures of Washington, D.C., it takes about 57 cents or so—rather, about 37 cents to transport the gas here from the Southwest. Today it costs about 23 cents on the average. That brings this up to about 60 cents into the city gates of Washington, D.C.

With the distribution cost of $1.25, that brings the total cost to about $1.85. If the cost is increased by 40 cents, going from 23 cents to 63 cents, which is the market in our State, then the cost would go up from $1.85 to $2.25. But it would only be a very small amount, because it would be the new gas, under the Buckley amendment, and it would be rolled into the existing gas.

The point I am trying to make is that it would be supplemental to the existing gas, to the existing contract, but it would be considerably cheaper than the 10-percent increase that is going to be available to the citizens of Washington by the processing of naphtha, which will cost $1.50 a thousand at the city gate.

So it seems that it would be a more reliable source, because the naphtha undoubtedly would be imported; it would be a lower-cost product, and one which would not involve an unfavorable balance-of-trade deficit. It would lead me to think that the purchaser would want to buy the gas within this country.

It seems to me that our choice is whether we are going to buy energy from domestic producers or whether we are going to buy it from foreign producers and increase their capabilities or increase our own.

Mr. HANSEN. I ask this of the Senator, at this point: One of the disturbing things, to me, in the bill before us is that we have a whole section that deals with windfall profits, with price fixing. The whole thrust of the proponents of this section, I believe, is intended to paint the picture that the oil industry wears a black hat, that its profits have far exceeded those of any other segment of American industry, that we have to have price fixing, that there is going to be gouging in everything, and that we can go ahead and solve our problems, as I said earlier, simply by passing this bill, failing completely, as the Senator from Oklahoma has pointed out, to recognize that we do not solve anything simply by spreading the misery around, simply by trying to make not enough do for more and more people. We have to get more supply going.

The incongruous aspect of the whole picture, when we talk about prices, is that we find the typical barrel of crude produced in this country selling for perhaps $4 or $5 per barrel. Is that about right?

Mr. BARTLETT. About $4.25.

Mr. HANSEN. I read in a newspaper a couple of days ago that a contract had been entered into, I believe with some Nigerian producers, for $17.40 a barrel. We have kept the price of natural gas down, so that there was no reason at all for the coal industry to try to do anything about gasification, liquefaction, or the development of the MHD process for generating electricity. At the same time, we are importing liquefied LNG, or have been, from Algeria, which is costing us all the way from $1.10 or $1.20 to as much as $1.50 or $1.60 per MCF. Are those figures some place in the ballpark?

Mr. BARTLETT. Yes. Those are the estimates that are generally given. But I understand that Algeria has chosen not to deliver on some of those contracts.

Mr. HANSEN. I suppose they could very well.

Of course, that means one thing: There is going to be less and less to go around.

As the Senator from Maine pointed out in our conference last night, we can whistle around and take all the time we choose; but let us not forget that if we do not take these steps now, if we do not institute some conservation measures immediately, when it is cold and when the sun has gone south, if we continue on without taking those steps which most people agree should be taken now, there will not be enough left to get us through the rest of the year in any fashion that will be acceptable to the average American.

We are going to be faced with cold homes, with schools closed. Some already are closing. I see that some of the colleges, particularly those in the northern part of the United States, have a longer Christmas vacation planned than would be normal. Public schools are going to be closed in greater and greater numbers. Factories will be closed. People will be out of jobs, which brings about, in the minds of some, the reasons for the provision in this bill that we will pay anybody for as much as 2 years of unemployment compensation if he is able to demonstrate—as I recall the language—that his employment was a direct result of any of these plans that have been implemented by government in trying to conserve energy.

So I am at a loss to know why those people who are such ardent advocates for the Government's taking some steps are so blinded to the supply side of the picture and are so insistent that we keep this provision in the bill. That is what we are talking about.

Mr. BARTLETT. Mr. President, will the Senator yield for a question?

Mr. HANSEN. I am glad to yield.

Mr. BARTLETT. Considerable evidence was presented to the Committee on Interior and Insular Affairs as to the additional amount of funds needed to develop our resources of oil and gas. What amounts are necessary, according to the Senator's best judgment, as to the amount required to have this Nation make big strides toward self-sufficiency?

Mr. HANSEN. The amount of capital?

Mr. BARTLETT. Yes.

Mr. HANSEN. The best answer I could give to that question would be simply to quote what the Chase Manhattan oil economists have concluded. They have been studying this problem. They have been keeping very close touch with the industry over the years. It is my understanding that John Winger and his associates—and I believe they are highly regarded not only nationally but also internationally as authorities in the field—have said that in order to have the degree of self-sufficiency they believe this Nation should have by 1985, it will be necessary for the industry to have at its disposal one trillion, 350 million dollars; and they go on to point out that the average rate of return to the industry has been around 8 percent.

If we were to make any appreciable progress at all, it would be necessary to at least double that rate of return, if we hope to have anything at all like the amount of capital necessary to drill the deeper wells, to explore our coastal waters, to institute secondary and tertiary recovery efforts, which, as the Senator well knows, can offer an immediate degree of relief. It would not be enough, but it can offer immediate help if we keep those stripper wells pumping that a few of our friends from the Northeast, a few years ago, were saying ought to be plugged and abandoned. They were criticizing the Nation's energy policy at that time by saying that we should forget about the oil industry generally in the United States and go over to the Middle East, where it was low priced, abundant, and readily available. They said, "Let us buy it over there and we can bring it back in this country and save the consumers of America billions of dollars."

The RIO Oil Import Task Force study assured that this was costing the American consumer $5 billion a year. They said, "We will go over there and buy it, put a tax on it, and replenish the Treasury at the same time."

Mr. MANSFIED. Mr. President, will the Senator yield briefly?

Mr. HANSEN. I yield.

Mr. MANSFIELD. Does the Senator intend to maintain the floor all evening or does he intend to let others speak on the bill this evening?

Mr. HANSEN. Mr. President, I would be happy to respond to my esteemed friend, the majority leader, that it is my understanding that an effort is being made right now to reach an accord on what may be contained in this bill and what will be taken from it; and if that effort is successful, I would be hopeful, as quickly as there is a resolution of this issue, to yield the floor and be done with this matter.

In the meantime there are those who would seek to have other actions taken at this time that might prejudice that effort. So I must say it will be my purpose as long as I am able to hang onto the floor while there is hope that the negotiators can come up with a resolution of the matter.

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

Mr. HANSEN. I am happy to yield.

Mr. MANSFIELD. May I say that I have been somewhat disturbed by the fact that emissaries from the White House have been close to the Senate all afternoon attempting to tell Senators, at least on this side, what kind of bill they want and what kind of bill they think we should pass.

After all, this is a government of coequal branches under the Constitution. There may be proposals which Senators themselves have, without any outside interference, I assume by Mr. Ash, the Director of the Office of Management and Budget, a representative of Mr. Simon, or at least that is the information which has been conveyed to me.

If the Senate is going to be held hostage because of something which the White House wants and if Members are going to continue to hold the floor, as my good friend, the distinguished Senator from Wyoming and others have been doing this afternoon, I do not know why we have a Senate. If we cannot make up our minds, rightly or wrongly, then I think we ought to consider the abolition of the Senate as an institution.

The manager of the bill does have a proposal which he wishes to make. The distinguished chairman of the committee does have an alternate approach which some of us think should be brought before the Senate for consideration. The Senate may not buy it, but it is my belief that if we keep on conducting the charade which has marked the Senate all afternoon, we are going to end up with no bill at all or a bill which will have only a title, implicating the use of the word "energy." It would be meaningless and it will not be conducive to what the Interior Committee and the Senate as a whole endeavored to do some days ago.

So I would hope that while these negotiations are going on between some Republicans and the White House representatives that the Senate would be given the opportunity to consider proposals of its own.

This is a pretty sorry performance when we have to depend on people from the White House meeting in the Vice President's room for the purpose of trying to tell us—trying to tell us—what kind of bill we should enact, and that bill to be dictated by them. It is a sorry day for the Senate when an event of that kind has gained the currency it has on this particular occasion and I say it with the deepest regret because of my high regard for the Senate as an institution.

Mr. HANSEN. I thank my good friend from Montana. Let me say that despite his anguish I would hope he would not give further consideration to the abolition of the Senate as an institution. I think it still has some very good years left, and despite my frustrations, having been on the losing side at times, when I reflect on the leadership of the Senator from Montana I have renewed faith and inspiration in the Senate as an institution.

Mr. MANSFIELD. I thank the Senator.

Mr. HUGH SCOTT. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

Mr. HUGH SCOTT. Mr. President, I would say that I would not want any misapprehension to exist here. We have all had, several times at several points, tried to work out a solution where the Senate could work responsibly, and send legislation to the House; and notwithstanding the problems in the other body—they appear to be very firm and up to now unyielding, at a time when we would hope for a greater spirit of compromise and conciliation. But the distinguished majority leader referred to Republicans.

Mr. MANSFIELD. Republicans meeting with White House representatives. The consultations which the distinguished Republican leader referred to previously happened to be between Democratic and Republic Senators only.

Mr. HUGH SCOTT. Yes. What was going on, I think it is fair to say, the distinguished chairman of the Committee on Finance (Mr. LONG), and some Senators of the Committee on the Interior have been meeting with the distinguished chairman of that committee (Mr. JACKSON). Some of the meetings are still going on.

I would not want it to appear that this is a party division within the Senate, because there are Members on both sides of the aisle who hold differing opinions on this.

What the leadership has been trying to do is to compromise those differences, and I believe if we go awhile longer we may be able to do that.

I have suggested instead of some 20 points of difference we confine ourselves to three or four. Some progress is being made on that right now. I hope we will have an answer on that in a very short time. It depends on the views of the Senators I mentioned, including the chairman of the Committee on Finance who quite rightly feels some measures in this bill should have been before the Committee on Finance, in a revenue measure.

Mr. MANSFIELD. Will the Senator yield there?

Mr. HUGH SCOTT. I yield.

Mr. MANSFIELD. Agreement has been reached on that aspect, section 112.

Mr. JACKSON. That is right. It is the section relating to windfall profits, which relates in turn to excess profits, which is a matter in the jurisdiction normally of the Ways and Means Committee and the Finance Committee.

Mr. HUGH SCOTT. I do not want to speak for the chairman of the Committee on Finance but I know he has been in consultation on that and the other point, and there are other revenue features in the bill.

But what is much more important is that the Senate shall do its job and pass some legislation and send it over to the other body, hopefully for passage.

Mr. MANSFIELD. I would agree with the distinguished Senator in that respect that we are being given no opportunity to act. Not only was that particular section which the Republican leader referred to agreed to for abolishment, but also the most serious consideration was being given to a bill which would expire on April 1. So there has been, among the Senators, and the Senators only, meetings which have arrived at tentative agreements—I think in the right direction. While I do not approve personally of some of these agreements, nevertheless they have been made by a sizable majority of those who met in session three times today for long periods of time.

Mr. HUGH SCOTT. I think we are getting near—at least they are getting near—an agreement since the majority leader and I have been acting more or less as mediators. There is, for example, the question whether or not Congress should have the right to veto, even retroactively, the right of the President during the recess to put a stop to gasoline sales on certain days. I think, if we are going to conserve energy, we ought at least give the President the authority by law, through his administrator, to stop gasoline sales and conserve energy.

There is a good deal of sentiment on this side that that ought not to be in the bill. That is one of the things we are talking about, because if it stays in the bill, the other body can come back after the 21st of January and veto whatever the President did during the recess with relation to the conservation of energy, the lighting of commercial buildings, sales of gasoline. I myself think it would cause economic chaos in the country if it were done.

That is one of the present sticking points that we are trying to work out. I do not believe it is a simple matter. I myself have not seen the representatives from the White House the distinguished majority leader referred to a moment ago. After I went out of there I talked to him to see who was there.

Mr. HANSEN. Mr. President, if I could make an observation, let me say that during the conference on this energy bill I discerned no enthusiasm at all on the part of the conferees to assume the job that the administration would be called upon to perform. It seems not too unusual, then, that there would be representatives from the administration up here, because time after time after time in the 2 days and 2 long nights that we

were trying to get together on this bill, no one—no one—wanted to spell out how we would go about achieving goals that would result in an equitable distribution of the energy we have in the country on the one hand and a fair treatment of people on the other—how we were going to ration, how we were going to conserve. There was no one there doing that.

I know it may be that oftentimes we see representatives from the administration here actually conferring with conferees and with the leadership, but I just have to observe to my good friend the majority leader that we asked several times—those of us on the conference—if those persons who wanted to have the right to veto any presidential action or any action taken by the energy czar, so-called, would like to take his job and spell it out in order not to have this hiatus existing between now and 15 days after the 21st of January when we come back in session, recognizing, as the Senator from Maine did, that that is too late; that is not good enough.

He said—and it bears repeating—that if we do not do something between now and 15 days after the 21st of January we very well may have used up more fuel than we will be able to replace from any other source, and he earnestly pleaded with the conferees, the House and Senate Members, to recognize the interests of America and to cast aside politics, insofar as the position of one or the other body is concerned. And that motion had the support of all excepting one of the Senate conferees, including Republicans and Democrats alike.

So, with that background, I say to my good friend from Montana, it is not too surprising that there are representatives from the White House up here. If no one of us wanted to say what ought to be done, if no one of us had any specific ideas how to accomplish these objectives, how better could we get in mind what the administration believes it needs in the way of conservation efforts to bring about, without doing serious harm to this country, or to any of the people, a program that would result in our being able to muddle through?

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

Mr. HANSEN. I am happy to yield.

Mr. MANSFIELD. I think I should point out that the Senator had administration witnesses before his committee when they were considering the bill which was proposed by the administration. I assume that the committee invited these people from the White House to participate in the hearings held by the conferees on the pending bill.

Mr. HANSEN. The Senator is quite right.

Mr. MANSFIELD. And that evidently has been a continuing invitation, because they have been up here every day, not as far as the conference was concerned, but when we are out of conference and considering it in the Senate, they are still carrying on their activities.

I think that the White House is too much involved in the affairs of the Senate, and I am not one of those who likes to see them come up here and tell us what to do or to help us in what we should endeavor, except on rare occasions.

I would point out, and I say this in all modesty, that I would allow no one from the White House under the Kennedy and Johnson administrations in my office to consider legislation except the regularly accredited, so to speak, liaison men for the Senate; and in those days we had good liaison men, and at the present time we have had extremely good liaison men in the persons of Ken Belieus and now Tom Korologos. That is enough. But as far as their emissaries are concerned, their duties are downtown at the other end of the avenue. Their duties are there, and ours are here.

I would hope the distinguished Senator from Wyoming, for whom I have great affection and respect, would consider the possibility of allowing the chairman of his committee to perhaps offer proposals that might get us off the impasse in which we find ourselves at the present time.

The item which the distinguished Senator was most interested in, however, has been agreed to. Both Republicans and Demorcats also have reached tentative agrement, subject to confirmation, that a bill that ought to be passed should extend only to April 1.

Perhaps the minority leader can corrobate that.

Mr. HUGH SCOTT. That is what we have been discussing, and there is currently going on an effort to work out a measure. There is currently going on between the chairman of the committee and the chairman of the Finance Committee some discussion. We could have a quorum call, perhaps. I believe the areas of disagreement have been substantially narrowed. If I can tell from this distance, the amount of paper seems to be smaller and shorter, and I believe we are getting closer and closer all the time.

I do say for the interest of the White House that it does exhibit their very great concern in the energy crisis. We have often complained about lack of communication. At the moment we seem to have all the communication we need, and obviously more than the distinguished majority leader feels to be necessary.

Mr. MANSFIELD. With Tom Korologos, whom else do they need?

Mr. JACKSON. Mr. President, if I may——

Mr. HUGH SCOTT. Mr. President, I understand we have an agreement, so I will, therefore, happily yield the floor.

The PRESIDING OFFICER. Permit the Chair to remind that the Senator from Wyoming——

Mr. JACKSON. Mr. President, he has the floor. I ask unanimous consent that I may proceed for a moment with the understanding that he will not lose his right to the floor, and I will not make any motion on his time.

Mr. HANSEN. No commotion either, is that correct?

Mr. JACKSON. I cannot guarantee that.

Mr. President, I should like to comment to the majority leader that we did something that was unique in connection with a markup of this bill, which was done in the open on the Senate side. Mr. President, we had representatives of the White House present to participate in the markup. And they participated all the way through. They made their proposals. We gave them a chance to present them. We either accepted or rejected them. This was an open markup session. The press and everyone had a chance to observe what went on.

When we passed the bill in the Senate, it went to the House. There were a great many changes to the bill there. I did not hear anything from the White House, very candidly, until the closing hours of the conference. I was never advised of their objections to the Senate-passed bill. I was not advised about the objections, frankly, to the action taken by the House. I did not agree with a lot of things that the House did. However, I had no indication at all until the closing hours of the conference about the various objections on the part of the White House.

Mr. President, we try to be reasonable around here. I think the White House has become overactive in the late hours, and it really did not pay much attention to what was going on up here until the closing hours of the Congress.

Mr. President, I am willing—not because I want to, but because I am a realist—to make some adjustments. I know and every one knows who is familiar with what is going on in this body right now that if we continue to discuss the pending conference report, we will be talking here through Christmas and on into New Year's, and we will not have a conference report.

We have done our part in bringing the conference report to the Senate. I think it is the best that we could do.

Mr. President, I am prepared to offer a motion to table the conference report which I shall vote against. However, I think we ought to have an expression of the Senate on it. After that has been acted upon, and I hope rejected, I will ask the majority leader to call up an appropriate House-passed bill, and I will then offer a compromise which I hope the Senate will accept and which I hope the House will accept.

It is not what I would like to do. However, I recognize, and we all recognize, that we do face an emergency. We do want to give whatever authority is necessary to the Administrator to do the conservation job and a few other things like oil conversion to coal, as soon as possible.

It is in that spirit that I shall make this compromise proposal which may be supported by the distinguished Senator from Arizona. And I would hope that we could proceed along this line as soon as possible.

Mr. GRIFFIN. Mr. President, would the Senator yield for a comment?

Mr. HANSEN. I yield for that purpose.

Mr. GRIFFIN. Mr. President, the Senator said that he would make a motion to table which he would vote against. I can understand why he would vote against it in his position. However, if the rest of us were to vote for the tabling motion, we would not be able to take up the other bill.

Mr. JACKSON. Mr. President, we can

set it aside temporarily and call up the other bill.

This represents the consensus of the House and the Senate. And the only reason that we cannot vote on it is because we have an extended discussion going on which it appears may be extended into Christmas Day and beyond.

Mr. GRIFFIN. The Senator could make a motion to temporarily lay aside the conference report and take up the other bill.

Mr. JACKSON. Mr. President, I want the Senate to have an opportunity to vote on it. That should be a condition precedent to taking the alternate course. That, I think, is the only sensible thing to do under the circumstances.

Mr. HANSEN. Mr. President, I yield to the Senator from Arizona without losing my right to the floor.

Mr. FANNIN. Mr. President, I feel it is just an exercise in futility to go through the process of tabling the conference report when it is not being done for an objective that is other than what the distinguished Senator from Washington stated. I feel that we can agree upon language, and we have discussed it very thoroughly. I certainly commend the distinguished Senator from Washington for his willingness to compromise and adopt language that will help the American people with this emergency.

We do have a very serious problem before us. We have a time problem that certainly, we know, is as serious as anything that has happened throughout this year.

So, I would plead with the distinguished Senator from Washington that we go ahead and have an understanding on what will be done and dispense with any vote as far as the conference report is concerned, because we do not feel that it would be in order at this time if we are going to take other action.

I cannot see what would be gained by having that vote. I would hope that he would dispense with his request to have that vote.

Mr. JACKSON. Mr. President, will the Senator yield to me under the same stipulation?

Mr. HANSEN. I yield to the Senator from Washington under the same stipulation.

Mr. JACKSON. Mr. President, I think the public has a right to know that on a substantial vote, the Senate would act favorably on the conference report. It is only because we do not have our chance to work our will at this late hour that I will offer an alternative course of action.

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

Mr. HANSEN. Mr. President, I yield to the Senator from Louisiana with the understanding that I retain my right to the floor.

Mr. LONG. Mr. President, I would like to say that I have great reluctance in voting for any motion that the mover cannot support himself. He said that he cannot vote for it. If the Senator wants to do something else, I might be willing to vote for it. However, if the Senator will not vote for his own motion, I do not think I will either.

Mr. HANSEN. Mr. President, let me say that it is my understanding that a new proposition has been worked out that has considerable support.

I would like to provide the distinguished chairman of the Committee on Interior and Insular Affairs and the floor manager of the bill an opportunity to examine and to discuss this new proposal with his counterpart, who has been actively participating with him, along with the chairman of the Finance Committee, to see if we can agree upon some new criteria they have just been developing.

It just happens that I have a few other things to say. I could continue to speak while they are looking at this proposal. It is not a lengthy one. It is reasonable. I think it includes all of the necessary elements that the White House needs in order to implement the kind of action that will result in some very positive, forward movement toward resolving this energy crisis as best we can within the parameters of the factors that are present.

So, if the distinguished chairman of the committee would like to get together with the others with whom he has been working, I would be very happy to continue with some exceedingly relevant and pertinent observations that address the energy crisis.

And that is what I now propose to do, Mr. President, with the understanding that the proposal to be made by the distinguished Senator from Washington (Mr. JACKSON) has been agreed to by the chairman of the committee, the minority leader, and the ranking minority member on the Committee on Interior and Insular Affairs. Without losing my right to the floor, I am happy to yield to my good friend, the Senator from Washington.

Mr. JACKSON. Mr. President, what I want to do is get the vote on the motion to table, which I shall vote against, though it is my own motion, and make the record on that. In the meantime, while we are having the rollcall, I hope we can go over what I understand is to be a series of changes that are not much beyond what we had discussed earlier in conference, and which should be agreeable.

Mr. President, if these stipulations are agreeable, then I shall be prepared to offer the amendment to one of the House passed bills.

Mr. HUGH SCOTT. Mr. President, if the Senator from Wyoming will yield to permit me to comment very briefly——

Mr. HANSEN. I yield.

Mr. HUGH SCOTT. I will say it is my intention to vote against the motion, and I hope that all Senators will vote against it. I would hope it would be a voice vote, because it is the only way I know to expedite the proceedings, to take some action which will ease the other body.

Mr. JACKSON. Mr. President, I think a rollcall vote is essential in dealing with the problem on the other side. I think we ought to make a record that we have no other alternative, if we are going to finish before Christmas, before New Year's, or before January 21, to taking the alternate course of action that I shall, after the vote on the motion to table, propose.

Mr. HANSEN. Mr. President, may I say it seems as though the distinguished Senator from Washington may be laying down some stipulations that are not agreed to by the persons whose concurrence I had asked for.

I see no reason, with the tenor as I sense it here, that there will be anyone voting for this motion to table, and I see no reason to have a roll call vote. If there is any doubt about it, let us have a division; let those stand who want to table and then let those stand who do not want to table. On the stipulation that we have a voice vote or a division only, I am willing to permit the offering of the resolution as just suggested by the Senator from Washington.

Mr. JACKSON. Mr. President, I am sorry. I do not know why any Senator should object to going on record to vote. The discussion here makes no sense. Let us go on record, and then we will talk, and during the period of the calling of the roll, I think between the ranking minority member and myself we will have worked out this matter. We will need that much time anyway; what harm is there to being on record?

Mr. HANSEN. Mr. President, I am happy to withdraw my objection.

Mr. JACKSON. Mr. President, I move to lay the conference report on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. HART). Does the Senator from Wyoming yield for the purpose of making this motion?

Mr. HANSEN. I yield, with the understanding that I do not lose my right to the floor after the vote has been taken.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. HART). The question is on agreeing to the motion to lay the conference report on the table. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. TALMADGE), the Senator from South Dakota (Mr. ABOUREZK), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that if present and voting, the Senator from Rhode Island (Mr. PASTORE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Nevada (Mr. CANNON) would each vote "nay."

Mr. GRIFFIN. I announce that the

Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator fgrom Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Also, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

The result was announced—yeas 0, nays 60, as follows:

[No. 619 Leg.]

YEAS—0

NAYS—60

Allen	Hansen	Muskie
Baker	Hart	Nelson
Bartlett	Hartke	Nunn
Bayh	Hathaway	Packwood
Beall	Hruska	Pell
Bible	Huddleston	Proxmire
Biden	Hughes	Randolph
Burdick	Jackson	Ribicoff
Byrd, Harry F., Jr.	Johnston	Schweiker
	Kennedy	Scott, Hugh
Byrd, Robert C.	Long	Scott, William L.
Case	McClellan	
Chiles	McGee	Sparkman
Clark	McGovern	Stennis
Cook	McIntyre	Stevenson
Cranston	Magnuson	Thurmond
Curtis	Mansfield	Tunney
Dole	Mathias	Weicker
Fannin	Metcalf	Williams
Fulbright	Mondale	Young
Griffin	Montoya	

NOT VOTING—40

Abourezk	Eastland	Moss
Aiken	Ervin	Pastore
Bellmon	Fong	Pearson
Bennett	Goldwater	Percy
Bentsen	Gravel	Roth
Brock	Gurney	Saxbe
Brooke	Haskell	Stafford
Buckley	Hatfield	Stevens
Cannon	Helms	Symington
Church	Hollings	Taft
Cotton	Humphrey	Talmadge
Domenici	Inouye	Tower
Dominick	Javits	
Eagleton	McClure	

So Mr. JACKSON's motion to lay the conference report on the table was rejected.

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

Mr. HANSEN. I yield, without losing my right to the floor.

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

Mr. HANSEN. Without losing my right to the floor.

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

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. 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.

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

Mr. HANSEN. I yield.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, December 21, 1973, he presented to the President of the United States the following enrolled bills and joint resolutions:

S. 1559. An act to assure opportunities for employment and training to unemployed and underemployed persons;

S. 1983. An act to provide for the conservation of endangered and threatened species of fish, wildlife, and plants, and for other purposes;

S. 2267. An act to amend section 303(b) of the Interstate Commerce Act to remove certain restrictions upon the application and scope of the exemption provided therein, and for other purposes;

S. 2482. An act to amend the Small Business Act;

S. 2491. An act to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains; and

S.J. Res. 182. A joint resolution extending the dates for the transmission of the 1974 Economic Report and the report of the Joint Economic Committee.

AMENDMENT OF WILD AND SCENIC RIVERS ACT

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 921.

The PRESIDING OFFICER (Mr. WILLIAMS) laid before the Senate the amendment of the House of Representatives to the bill (S. 921) to amend the Wild and Scenic Rivers Act", which was to strike out all after the enacting clause, and insert:

That the Wild and Scenic Rivers Act (82 Stat. 906), as amended (16 U.S.C. 1271–1287), is further amended as follows:

(a) Section 7(b)(i) is amended by:

(i) deleting "five-year" and inserting in lieu thereof "ten-year".

(ii) deleting "publish" and inserting in lieu thereof "notify the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate in writing, including a copy of the study upon which his determination was made, at least one hundred and eighty days while Congress is in session, prior to publishing".

(b) Section 15(c) is amended by deleting "scenic view from the river," and inserting in lieu thereof "scenic and natural qualities of a designated wild, scenic, or recreational river area,".

(c) Section 16 is amended as follows:

(i) delete "$17,000,000" and insert "$37,600,000".

(ii) redesignate "SEC. 16." as "SEC. 16. (a)" and insert "(b) The authority to make the appropriations authorized in this section shall expire on June 30, 1978".

Mr. JACKSON. Mr. President, I move that the Senate concur in the House amendment with an amendment which I now send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk proceeded to read the amendment.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

At the end of the matter proposed to be inserted by the House add a new title I, title II, and title III as follows:

TITLE I—ENERGY EMERGENCY AUTHORITIES

SEC. 101. FINDINGS AND PURPOSES.

(a)(1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing, energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the preventions of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the

District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall be headed by a Federal Energy Emergency Administrator, who will be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974), all functions powers, and duties of the President under sections 4, 5, 6, and 9 of the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such sections (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h)(1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidence of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) The rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of section 4(b) of this Act and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include procedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax.

"(6) No rule prescribed under this subsection (h) may remain in effect after April 1, 1974."

SEC. 105. ENERGY CONSERVATION PLANS.

(a)(1)(A) Pursuant to the provisions of this section, the Administrator is authorized to promulgate by regulation one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption and which are authorized by this Act.

(B) No energy conservation plan promulgated by regulation under this section may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided for in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to the plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any recession of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b)(3), provision of an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than April 1, 1974.

(b)(1) For purposes of this subsection, the term "energy conservation plan" means a plan promulgated by a regulation proposed under subsection (a) of this section or an amendment thereto which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3)(A) If an energy conservation plan is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) If an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 1, 1974 and before April 1, 1974, such action shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(C) An energy conservation plan proposed to be made effective on or after April 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise is effective.

(c)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For the purpose of this subsection, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the ———— does not favor the energy conservation plan numbered ———— transmitted to Congress by the Administrator of the Federal Energy Emergency Administration on ————, 19——." the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution with respect to an energy conservation plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4)(A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favor-

ing and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(C) If the motion, to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5)(A) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an energy conservation plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution with respect to an energy conservation plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(B) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an energy conservation plan shall be decided without debate.

(d)(1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analyses shall, wherever possible, be made explicit and, to the extent practicable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses, except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any energy actions taken by the Administrator, and shall provide the Congress with sparate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the administrator shall prohibit the use of natural gas and petroleum, products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act, propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of the plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105(b)(3)(B) applies (except that such plan may be submitted at any time after the date of enactment of this Act and before April 1, 1974.

(b) Section 4(b)(1)(G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and

"(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto,"

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(1) require, by order or rule, the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) require the adjustment of processing operations of domestic refineries to produce refined products in proportion commensurate with national needs and consistent with the objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10 of the United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 as amended by section 104 of this Act is amended by adding at the end of such section the following new subsection:

"(i) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil

or the product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g)(1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110. IMPORTATION OF LIQUEFIED NATURAL GAS.

The Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new section:

"SEC. 8. Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date."

SEC. 111. PROTECTION OF FRANCHISED DEALERS

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "notice of intent" means a written statement of the alleged facts which, if true, constitute a violation of subsection (b) of this section.

(4) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(5) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b)(1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c)(1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy. No such suit shall be maintained unless commenced within three years after the cancellation, failure to renew, or termination of such franchise or the modification thereof.

SEC. 111. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users: *Provided,* That with respect to allocations of petroleum products applicable to the foreign trade and commerce of the United States, no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, and allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in foreign commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 112. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on April 1, 1974, have authority to take any action for the purpose of a conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Commerce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service-under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 4 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 113. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (1), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c)(1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 1), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552(b)(1) and (b)(3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry-out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(c) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee.

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b)(1) and (b)(3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences, or communications from the requirements of subsection (c)(3) and (e)(4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communciation may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference, or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g)(1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity conferred by subsection (i) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h)(1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers confererred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, or any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (i)) shall terminate on April 1, 1974.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 114. EXPORTS.

To the extent necessary to carry out the purposes of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That, the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the

historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 115. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants to States to provide to any individual unemployed, if such unemployment resulted from the administration and enforcement of this Act and was in no way due to the fault of such individual, such assistance as the President deems appropriate while such individual is unemployed. Such assistance as a State shall provide under such a grant shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as unemployment in the area caused by such administration and enforcement continues (but not less than six months) or until the individual is reemployed in a suitable position, but not longer than two years after the individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 116. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the futherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of $5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(i) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

SEC. 117. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule or order (including a rule or order issued by a State or officer thereof) under this title (except with respect to any rule or order pursuant to sections 108 and 113 of this Act, section 205 (a), (b), and (c), of this Act, or section 4(h) of the Emergency Petroleum Allocation Act of 1973) or under the authority of any energy conservation plan.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such order or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(5) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this Act or the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders, furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board,

the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

SEC. 119. PROHIBITED ACTS

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than $2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than $5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than $50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending April 1, 1974, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Emergency Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Energy Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations as the Administration shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Departments of Interior and Justice, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Attorney General and the Secretary of the Interior shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the effective date of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, shall provide detailed reports to the Attorney General and the Secretary of the Interior every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and destination of any petroleum product, natural gas, and coal; (3) refinery runs by product; and (4) any other data required by the Attorney General or the Secretary of the Interior for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty days report. Such regulation shall be promulgated 30 days after such publication. The Attorney General or the Secretary of the Interior shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Attorney General and the Secretary of the Interior may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Attorney General and the Secretary of the Interior. The district courts of the United States are authorized, upon application of the Attorney General and the Secretary of the Interior, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Attorney General and the Secretary of the Interior by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) the Attorney General, or (2) the Secretary of the Interior.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order or take other action under this title, or to enforce any such rule or order, shall expire on midnight April 1, 1974, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, April 1, 1974.

SEC. 127. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 122, $75,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1974, and $75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116,

there is authorized to be appropriated $500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of ths Act, or the application of any such provision to any person or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. PRICE AUTHORITY.

The President shall exercise his authority under the Economic Stabilization Act of 1970, as amended, and the Emergency Petroleum Allocation Act of 1973 to specify prices for sales of crude oil, residual fuel oil or refined petroleum products in or imported into the United States which avoid windfall profits by sellers. For purposes of this section, windfall profits shall be defined as those profits which are excessive or unreasonable, taking into consideration normal profit levels. This section shall be effective only until December 31, 1974.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 119. (a)(1)(A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administration finds that such person will be unable to comply with such limitation during such period solely because of unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2)(B) and (2)(C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a)(2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitation are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b)(1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirements, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation plan and which is designed to limit stationary source emissions resulting from combustion of fuels, including a probation on, or specification of, the use of any fuel of any type or grade or pollution characteristics thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a)(3).

"(b)(1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source (A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or which the Administrator determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (B) which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source.

"(2)(A) Paragraph (1) of this subsection shall apply to a source, only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentations of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means, and in accordance with a schedule, which meets the requirements of subparagraph (B), and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must (i) enter into contracts or other enforceable obligations for obtaining a long-term supply of coal or coal by-products (which contracts or obligations must have received prior approval of the Administrator), and (ii) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by the following sentence (which steps and systems must have received prior approval of the Administrator). Such regulations shall also require that the source achieve as expeditiously as practicable considering the type of coal to be used (but not later than January 1, 1979) the same degree of emission reduction as it was required to achieve by the applicable implementation plan in effect on the date of enactment of this section. Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(C) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter, prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this paragraph.

"(3) For purposes of this subsection, the term "air pollution requirement" means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control

strategies for the attainment and maintenance of national ambient air quality standards for sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for nonsolid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f)(1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (1)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution sources presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i)(1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increase to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirements.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j)(1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act.

"(2) The Administrator of the Federal Energy Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973."

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" and by adding at the end thereof the following new subparagraph:

"(B)(1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision) the Administrator shall, after public notice and opportunity for a public hearing, promulgate a revised plan (or portion thereof) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2)(A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Administration, and the Chairman of the Council on Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subsection. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a

street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b)(1)(A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5)(A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b)(1)(B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b)(5)(A) of such Act is amended to read as follows:

"(5)(A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1)(A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1)(A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b)(5)(B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a)(1) Section 113(a)(3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b)(3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c)(1)(C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 106, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of $3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken, if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington, Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles, and San Diego in the State of California. In carrying out such investigation and

study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local level; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a)(1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standard, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifing or otherwise limiting the manufacturer's discretion in deciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator of the Federal Energy Emergency Administration shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elastivity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act. For the purposes of Section —, the plan provided for in this section shall be considered an energy conservation plan.

(B) The Administrator of the FEEA shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator of the FEEA shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning February 1, 1974, on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

Mr. JACKSON. Mr. President, this amendment represents the compromise we have worked out with the minority, which I hope the Senate will accept. The amendment is everything that was in the conference report, except four areas, to which I shall refer at this time.

First, it would delete the windfall profit section of the bill, section 110.

Second, it would change the act regarding the termination date in section 126 from May 15, 1975, to April 1, 1974.

Third, there would be a deletion in section 103(d), creating the Federal Energy Emergency Administration, regarding the requirements of the Federal Reports Act, and provisions for simultaneous budget submissions. That would be eliminated from section 103.

Fourth, there would be a modification of the industry reporting section—that is section 124—to require reporting only to the Departments of Justice and the Interior.

The compromise—these four points—will enable the administration to take such actions as are necessary to deal with the current energy emergency for this winter. At the same time, it will provide Congress an opportunity to legislate a new bill in January, February, and March. It will give Congress an opportunity prior to April 1 to complete more in depth action dealing with these important areas of conservation of energy, which is a critical area, the longer term gas rationing authority, and problems on clean air provisions which do extend to May 15, 1975; and also the long-term requirements which would run to the same date, May 15, 1975, regarding the conversion from oil to coal.

I think this is the best possible agreement that can be reached under all the circumstances, with Senators on both sides giving and taking in the spirit of sensible compromise, in light of all the circumstances.

There were a number of other proposals made which we could not accept. I think we might mention just one area. One area relates to a list of some 20 proposed conservation measures which the administration would like to delete from that part of the bill which gives Congress the right of veto. Specifically they have asked for a deletion of the veto right in the area relating to the volume of gasoline that could be restricted in sales to individual consumers.

Second, they wanted a deletion from the veto right as it pertains to a reduction in lighting, in commercial and industrial usage. It was my judgment that these are sensible and necessary things to do. We took this matter up in conference.

I believe most, if not all, of the Senate conferees did agree in these two areas. We were almost unanimous on these two points. But I think it would

create nothing but confusion to make an exception in this area. I would oppose any attempt to delete the veto in the two areas I referred to, and I think the Senator from Maine, who joined me in that effort in conference would agree on that.

Under this proposal Congress will have ample time to deal with the question of veto by legislating because we will have to legislate between January 21 and April 1 when the act would expire.

Therefore, I feel that these are two items on which Congress should refrain from any veto action while we are considering the extension of the act, with any changes to be made after April 1.

Mr. President, I yield to the distinguished Senator from Maine. May I say that the distinguished senior Senator from Maine played a very important role in trying to hammer out a series of compromises in the conference. I wish to pay tribute to him for the good sense, and good judgment of give and take he displayed in trying to resolve this matter. I compliment him as well as other members on the committee for their efforts during that 30-hour conference period in 2 days. I especially wish to call to the attention of my colleagues the usual fine cooperation and many contributions of the senior Senator from West Virginia and chairman of the Public Works Committee, Mr. RANDOLPH. Throughout this long and tiring conference, which lasted until nearly midnight on two consecutive difficult circumstances. All of the members of the conference committee have my appreciation for their dedication, good humor, and patience during this effort. I hope we will succeed and pass a bill which the Nation needs at a very critical time in our history.

Mr. MUSKIE. I thank my colleague. It was a difficult conference to manage and I compliment him for bringing it to a head.

On this subject, as I said in conference, at least respecting my State, to really save fuel under any conservation program we are going to do it now or at least we will have to set the pattern. I feel the Administrator should have the authority to do whatever can be done between now and then to maximize the savings. If we do not do it between now and then, we will have lost the major opportunity to see us through the winter with minimum damage.

For that reason I urged the House Members to eliminate the congressional veto and put this job in the Administrator's hands, and to give him the authority to move. But the House would not buy that.

The laundry list of possible conservation measures the Administrator might take was a little scary from the point of view of the House conferees. So ultimately we tried what the Senator proposes here, and that is that we give the Administrator authority to ban the Sunday sale of gasoline and limit electric lighting to business, industrial, and residential. But the House would not buy even that.

So I think it would be foolish to send such a laundry list to the other body. I think the administrator should be reassured on the floor of the Senate by those of us who had any role to play in framing this legislation that we would oppose the use of that veto with respect to these particular measures. I give that assurance for whatever it is worth. I speak only for myself, but I am happy to give it.

If the Administrator moves in this direction the country and the Congress will support him. It is reasonable, and I am confident he will be supported.

Mr. JACKSON. I join in the expression of the problem by the able Senator from Maine. I think we ought to make very clear that we, of course, expect the Administrator to meet the requirements of due process as they make these moves; if the moves are to be sensible there must be that due process.

Under the provisions of this act the Administrator can put such measures into effect immediately, but it does require a hearing and notice after they have been into effect. We expect that the administrator, and I have great confidence in Mr. Simon, will not act in an arbitrary and capricious way, but the notice and hearing procedure will be carried out in good faith. They are necessary to have the support of those called upon to submit to the restrictions.

Mr. MUSKIE. I, too, have confidence in Mr. Simon. I am impressed by the way he goes about his job. I think he will handle it responsibly and he has my support for these particular measures.

Mr. HANSEN. Mr. President, we could all make long speeches. I am not going to do so, but I do want to pay my respects to the Senator from Washington (Mr. JACKSON), the chairman of the committee; the Senator from Maine (Mr. MUSKIE) for the great job he has done; the Senator from Louisiana (Mr. LONG) for the job he has done; to the Senator from West Virginia (Mr. RANDOLPH); and many others who have contributed so unflaggingly of their energy and wisdom in trying to bring about a resolution of this matter.

I yield to my friend from Arizona.

Mr. FANNIN. Mr. President, I wish to join colleagues in commending the conferees for the work they have been doing, the time they have devoted, and the great effort made to bring legislation to the floor that would be acceptable, and standing up for what they felt was right and upholding the Senate position.

I want to concur in what has been said by the Senator from Washington and the Senator from Maine regarding the veto matter. I commend the Senator from Maine for bringing it to conference and emphasizing what it would mean. In fact, he said what we do in the next 30 days will decide what will be accomplished all winter long because if we get behind, we will never catch up. On commercial and industrial light they expect to save as much as 800,000 barrels a day.

Other than to compliment the Senator from Tennessee (Mr. BAKER) and the Senator from Alaska (Mr. STEVENS) for their diligent work. The Senator from Kansas (Mr. DOLE) is to be congratulated for his floor amendment that was also proposed by the Congressman from California (Mr. GOLDWATER) and the House accepted it, and in turn it was accepted by the conferees.

I will not take further time, but I express sincere appreciation to those who made this possible.

Mr. KENNEDY. Mr. President, in the first three quarters of 1973, the various major oil companies had increases in profits of 50 to 60, even 90 percent.

That was before the 12½-percent price increase permitted in home heating oil prices on December 6.

It was before the $1 per barrel price increase announced 2 days ago which will add some $136 million to consumer costs in Massachusetts.

My constituents are not only being told that they will be going cold but that they will be going poor at the same time.

For home heating oil, we already are paying 150 percent higher prices than we did a year ago.

The least that we could do is impose an excess-profits tax to prevent the oil companies from unfairly gouging the public.

The conference committee report contained reasonable provisions prohibiting windfall profits.

While I support the provisions for emergency energy conservation as I did when I testified in favor of this bill and when it came to the floor, I cannot support its omission of the requirement for imposition of a windfall profits tax.

In addition the compromise that is before us omits any requirement for the oil companies to report to the Federal Trade Commission or the General Accounting Office. We have learned too well that the failure to require that the Congress have access to industry information, as we would have had through the GAO, will seriously weaken our capacity to legislate intelligently during this period of energy shortages.

For those two reasons, both of which exempts the major oil companies from the sacrifices required of all other citizens, I shall oppose this bill.

Mr. DOLE. Mr. President, the section which prohibits unreasonable actions on allocations intended to deal with a problem that is intrinsic within any fuel allocation program—the problem of equitable distribution.

It is difficult to define exactly what an equitable distribution might be. Generally, it would seem fair and equitable to require that every sector of the economy bear an equal percentage of the total reduction required by the shortage. Yet this precludes giving a specific usage or an emergency need special consideration. The equity requirement, combined with the desirability of maintaining flexibility in any allocation program, makes it nearly an impossible task to legislatively define what an equitable program would be.

But though the task is difficult, I do feel that it is essential that we demonstrate a clear legislative intent that any allocation program be as fair and equitable to all sectors of the economy as is possible, given the flexiblity that is required.

I was pleased therefore to work to secure retention of the provision which would require that any allocation program which has been made operative to date or which shall be made operative hereafter shall not unreasonably dis-

criminate among users or classes of users.

The need for such an amendment was illustrated by the initial fuel allocation reductions imposed upon the general aviation industry. As initially announced, a 42-percent reduction in fuel for general aviation would have been implemented, even though commercial aviation was reduced by a substantially smaller percentage and other modes of transportation would have incurred an even smaller reduction in fuel allocations. Since the initial allocation reduction was announced, the administration modified its proposed reductions, and it now appears that only about a less drastic overall reduction in fuel will be imposed on the general aviation industry. Yet in the 1-week period following announcement of the 42-percent reduction proposal, the impact on the general aviation industry, in general, and on Wichita, Kans.—the leading city in the general aviation industry—was dramatic.

More than 2,400 employees were laid off at a plant in Wichita, and without the adjustments which were later made by the administration, it is estimated that as many as 8,000 aviation employees could have lost their jobs in Wichita alone, and as many as 100,000 jobs would have been jeopardized nationwide. When the impact of the aviation job reduction is measured on the total economy it is estimated that this could have cost the city of Wichita 20,000 jobs, and the country as a whole 250,000 jobs over the next few months.

The impact of the decision regarding general aviation fuel allocation was so great that special action was needed. In the first place, it appears that the decision was particularly harsh on the aviation industry in comparison to the cutbacks that were being imposed on other sectors of the transportation field. And second, the severe impact the proposed allocation would have had on the economy of Wichita and numerous other cities across the country gave the issue a priority of a different nature which deserved special consideration, given the existing needs and fuel supplies.

But the Congress, with this section is on record to express legislatively the intent that the allocation program should not unreasonably discriminate among various users and classification of users. It requires that pleasure driving not be given a higher priority than pleasure flying, that business driving not be treated differently than business flying—in other words, that there be no discrimination between users and classes of users of fuel for a given purpose.

The section is not intended to destroy the flexibility of the program. It will not prevent fuel allocations from reflecting priority or emergency needs. If additional fuel supplies are needed in agriculture to assure an adequate supply of food, or if additional supplies of fuel are needed for home heating purposes, the emergency needs must be met. But considering the limited supplies of fuel that are available, we must insure that classes of users or individual users of fuels which have equal priorities be equally treated. All users of fuel having the same priority should bear equally the burden of the fuel shortage.

The section, to a certain extent, limits the administrative discretion which Congress allows the President under any fuel allocation authority. But at the same time, it does not tie the hands of the administration or take away the flexibility needed to meet emergency situations. It would prevent arbitrary decisions from being rendered. It would also prevent any user or classification of user from being unfairly treated because of its high visibility because it would serve as a good example of our effort to limit fuel consumption. It would also prevent decisions from being made for purely political reasons.

The life of every American will be affected by the fuel shortages, and we must all bear our share of the inconveniences, burdens, economic hardships, and difficulties which are sure to come in the next few months. But it is important, and I feel Congress has the responsibility of assuring that the burden of the fuel shortage be distributed equitably among Americans and sectors of the economy. I therefore believe that the section insuring that, in this difficult energy crisis, the sacrifices which are sure to be required, shall be shared as equitably and fairly as possible is an important addition to the bill.

SEVERAL SENATORS. Vote! Vote!

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington. 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 Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from North Carolina (Mr. ERVIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Utah (Mr. MOSS), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Nevada (Mr. CANNON), and the Senator from Missouri (Mr. EAGLETON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from New Hampshire (Mr. COTTON) is absent because of illness in his family.

The Senators from Vermont (Mr. AIKEN and Mr. STAFFORD), the Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. BROCK), the Senator from Massachusetts (Mr. BROOKE), the Senator from New York (Mr. BUCKLEY), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Florida (Mr. GURNEY), the Senator from Oregon (Mr. HATFIELD), the Senator from North Carolina (Mr. HELMS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senators from Ohio (Mr. SAXBE and Mr. TAFT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Also, the Senator from New Mexico (Mr. DOMENICI), the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

If present and voting, the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 52, nays 8, as follows:

[No. 620 Leg.]

YEAS—52

Abourezk	Griffin	Montoya
Allen	Hansen	Muskie
Baker	Hart	Nelson
Bartlett	Hartke	Nunn
Bayh	Hathaway	Packwood
Beall	Hruska	Pell
Bible	Huddleston	Proxmire
Burdick	Hughes	Randolph
Byrd, Harry F., Jr.	Jackson	Ribicoff
Byrd, Robert C.	Johnston	Scott, Hugh
Chiles	Long	Scott, William L.
Clark	Magnuson	Sparkman
Cranston	Mansfield	Stevenson
Curtis	McClellan	Thurmond
Dole	McGee	Tunney
Fannin	McGovern	Williams
Fulbright	McIntyre	Young
	Mondale	

NAYS—8

Biden	Kennedy	Schweiker
Case	Mathias	Weicker
Cook	Metcalf	

NOT VOTING—40

Aiken	Ervin	Pastore
Bellmon	Fong	Pearson
Bennett	Goldwater	Percy
Bentsen	Gravel	Roth
Brock	Gurney	Saxbe
Brooke	Haskell	Stafford
Buckley	Hatfield	Stennis
Cannon	Helms	Stevens
Church	Hollings	Symington
Cotton	Humphrey	Taft
Domenici	Inouye	Talmadge
Dominick	Javits	Tower
Eagleton	McClure	
Eastland	Moss	

So Mr. JACKSON's motion was agreed to.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask all Senators to remain close by so that we can maintain a quorum. We do not know how the House will act on this matter.

I am sure that it will be as expeditiously as possible. We would like to get this matter out of the way before we adjourn sine die, hopefully, tonight.

Mr. ROBERT C. BYRD. Mr. President, may the well be cleared so that I can see if the flag is still there.

The PRESIDING OFFICER. The well will be cleared. The Senate will be in order.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of John H. Powell, Jr., to be a member of the Equal Employment Opportunity Commission.

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The second assistant legislative clerk read the nomination of John P. Powell, Jr., of Maryland, to be a member of the Equal Employment Opportunity Commission.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be notified of the confirmation of the nomination.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

OVERSEAS WAR MEMORIALS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 585.

The PRESIDING OFFICER. The clerk will report the bill by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 3733) to authorize the American Battle Monuments Commission to assume control of overseas war memorials erected by private persons and non-Federal and foreign agencies and to demolish such war memorials in certain instances.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and the Senate will proceed to the consideration of the bill.

Mr. HARTKE. Would the senior Senator from Nevada yield for a question to clear up certain jurisdictional matters?

Mr. BIBLE. Yes, I would be happy to yield to the chairman of the Committee on Veterans' Affairs.

Mr. HARTKE. First, I want to say that I support H.R. 3733, the legislation reported from the Committee on Interior and Insular Affairs by the distinguished chairman of its Subcommittee on Parks and Recreation. This legislation would authorize the American Battle Monuments Commission to assume responsibility for the control, administration and maintenance of overseas war memorials erected by private persons and non-Federal and foreign agencies. In certain instances the American Battle Monuments Commission would also be authorized to demolish such war memorials. I am somewhat concerned, however, about apparent confusion as to proper committee jurisdiction over the American Battle Monuments Commission. H.R. 3733 was reported from the House Committee on Veterans' Affairs but for some reason was referred here to the Interior Committee. As you know, in order to create a committee with parallel jurisdiction to the House Committee on Veterans' Affairs, the Senate in the Legislative Reorganization Act of 1970, created a full standing Committee on Veterans' Affairs. As a result this new committee assumed many responsibilities then held by a number of committees in the Senate. Included in the transfer of authority to the Committee on Veterans' Affairs as provided for in Rule XXV of the Standing Rules of the Senate, was jurisdiction over matters relating to national cemeteries. As you are aware, the chief function of the American Battle Monuments Commission is to manage memorial cemeteries located on foreign soil where many of our veterans are buried. Each year the Commission's annual report is submitted to the Veterans' Affairs Committees of both the House and Senate.

The National Cemeteries Act of 1973, reported from the Veterans' Affairs Committee which I am privileged to chair and enacted into Public Law 93-43 this year, mandated a thorough study of the National Cemeteries System which included the continuing function and role of the American Battle Monuments Commission and its relationship to the Veterans' Administration. Accordingly, it is my understanding that the primary legislative and oversight responsibility for the American Battle Monuments Commission in the Senate rests with the Committee on Veterans' Affairs as it does in the House Committee on Veterans' Affairs. I would like to know if that is also the understanding of the distinguished chairman of the Subcommittee on Parks and Recreation.

Mr. BIBLE. I have no basic disagreement with the statement of the Senator from Indiana. It is my understanding that the primary legislative and oversight responsibilities with regard to national cemeteries are within the purview of the Senate Committee on Veterans' Affairs. Formerly this jurisdiction rested with the Interior Committee. I believe this legislation now before the Senate today, however, is meritorious and I would hope that we can act on it today without further reference. Matters related to the American Battle Monument Commission have historically come before the Interior Committee. We have plenty to do and I am sure we would not object if future proposals are sent to the Veterans Committee.

Mr. HARTKE. I thank the distinguished Senator from Nevada for his remarks and with that understanding I wish it noted that I have no objection to the immediate consideration of this measure.

Mr. BIBLE. I am pleased that this matter has been clarified and I thank the senior Senator from Indiana for bringing it to my attention.

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

SUPPORT OF THE U.S. FISHING INDUSTRY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on Senate Concurrent Resolution 11.

The PRESIDING OFFICER (Mr. WILLIAMS) laid before the Senate the amendments of the House of Representatives to Senate Concurrent Resolution 11; to express a national policy with respect to support of the U.S. fishing industry, which were to strike out all after the resolving clause and insert:

That it is the policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps be taken to provide adequate protection of our coastal fisheries against excessive foreign fishing, and further that the Congress is fully prepared to act immediately to provide interim measures to conserve overfished stocks and to protect our domestic fishing industry.

SEC. 2. The Congress also recognizes, encourages, and intends to support the key responsibilities of the several States for conservation and scientific management of fisheries resources within United States territorial waters; and in this context the Congress particularly commends Federal programs designed to improve coordinated protection, enhancement, and scientific management of all United States fisheries, including coastal, anadromous and highly migratory species, under such presently successful Federal aid programs under the Commercial Fisheries, Research and Development Act of 1964, and the newly developing Federal-State fisheries management programs.

And to strike out the preamble, and insert:

Whereas the position of the United States in world fisheries has declined from first to sixth place among the major fishing nations;

Whereas there has been a continuing decline in domestic production of food fish and shellfish for the last five years;

Whereas our domestic fishing fleet in many areas has become obsolete and inefficient;

Whereas intensive foreign fishing along our coasts has brought about declines in stocks of a number of species with resulting economic hardship to local domestic fishermen dependent upon such stocks;

Whereas rising costs and extremely high insurance rates have made fishing uneconomic in some areas even when stocks of fish and shellfish are at normal levels;

Whereas assistance to fishermen is very limited as contrasted to Federal aid to industrial, commercial, and agricultural interests;

Whereas United States fishermen cannot successfully compete against imported fish products in the market because a number of foreign fishing countries subsidize their fishing industry to a greater extent;

Whereas some 60 per centum of the seafood requirements of the United States is being supplied by imports;

Whereas the United States fisheries and fishing industry is a valuable natural resource supplying employment and income to thousands of people in all of our coastal States;

Whereas international negotiations so far have proved incapable of obtaining timely agreement on the protection of threatened species of fish;

Whereas our fisheries are beset with almost unsurmountable production and economic problems; and

Whereas certain of our coastal stocks of

fish are being decimated by foreign fishing fleets; Now, therefore, be it

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

DESIGNATION OF JAMES G. FULTON FLOOD PROTECTION PROJECT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Public Works be discharged from further consideration of H.R. 1920 and that the Senate proceed to the immediate consideration of the bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 1920) to designate the portion of the project for flood control protection on Chartiers Creek that is within Allegheny County, Pa., as the "James G. Fulton Flood Protection Project".

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 1920) was ordered to a third reading, was read the third time, and passed.

ORDER REGARDING NOMINATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all nominations now before the Senate remain before the Senate, despite the hiatus occasioned by the changeover from the first session to the second session of the 93d Congress.

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

(This order was later vitiated.)

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

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

RECESS SUBJECT TO CALL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the leadership.

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

Thereupon, at 6:53 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 7:15 p.m., when called to order by the Presiding Officer (Mr. BURDICK).

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN S. 921

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendment to the House amendment to S. 921.

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

RECESS SUBJECT TO CALL

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess, awaiting the call of the leadership.

The motion was agreed to; and at 7:16 p.m. the Senate took a recess, subject to the call of the leadership.

The Senate reassembled at 7:42 p.m., when called to order by the Presiding Officer (Mr. ROBERT C. BYRD).

RESCISSION OF PREVIOUS ORDER TO HOLD ALL NOMINATIONS AT THE DESK

Mr. MANSFIELD. Mr. President, earlier this evening I asked unanimous consent that all nominations at the desk of the Senate be held over until the second session of the 93d Congress. I ask unanimous consent that that request be vitiated.

The PRESIDING OFFICER. Without objection, the consent previously given will be vitiated.

RECESS SUBJECT TO CALL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the leadership.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

At 7:43 p.m., the Senate took a recess subject to the call of the leadership.

The Senate reassembled at 1:35 a.m., Saturday, December 22, 1973, when called to order by Mr. PROXMIRE.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1191. An act to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes;

S. 2812. An act to amend the Federal Water Pollution Control Act to establish the ratio for allocation of treatment works construction grant funds, to insure that grants may be given for other than operable units, and to clarify the requirements for development of priorities;

H.R. 8449. An act to expand the national flood insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes;

H.R. 8529. An act to implement the shrimp fishing agreement with Brazil;

H.R. 11238. An act to amend the Act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes; and

H.R. 11771. An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, this has been a most unusual night. I do want to commend the Members of the Senate on both sides of the aisle for their devotion to their responsibilities and to state to them that, because of a set of circumstances over which the Senate has no control, the picture has been changed somewhat.

ORDER TO ADJOURN TO 1 P.M. SATURDAY, DECEMBER 22, 1973

Mr. MANSFIELD. First, Mr. President, I ask unanimous consent that when the Senate adjourns this morning, it stand in adjournment until 1 o'clock this afternoon.

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

POSSIBILITY OF 3-DAY RECESSES UNTIL JANUARY 3, 1974

Mr. MANSFIELD. Mr. President, if the Senate is not given permission by the House to adjourn in accord with the joint resolution which has been signed by the President and in accord with the resolution which has been taken up in the Senate and passed unanimously, it would be the intention of the leadership to operate on a 3-day recess basis until January 3, during which time I would anticipate there would be little, or no, business, because if there is to be business it would take an accommodation and understanding between the two coequal Houses of the Congress.

If that turns out to be the situation, the Senate is on notice as to how we will operate until January 3 at noon.

It is my understanding, based on the joint resolution passed by both the House and the Senate and signed by the President, that after 12 o'clock noon on January 3 we can then look forward to an adjournment which would be in effect until noon on January 21.

I would like to ask the Chair if that interpretation is the correct one.

The PRESIDING OFFICER. The Parliamentarian has informed the Chair that the majority leader's interpretation is correct—that it would be in order for the Senate to recess for 3-day periods until January 3.

At that time the Senate could adjourn until January 21 pursuant to the joint resolution which the President, the Chair

understands, has signed today and which is now law.

Mr. MANSFIELD. It is my understanding that it was signed today.

ADJOURNMENT TO 1 P.M. TODAY

Mr. MANSFIELD. So, Mr. President, if there is no further business to come before the Senate, I move that the Senate stand in adjournment until the hour of 1 p.m. this afternoon.

The motion was agreed to; and at 1:39 a.m. the Senate adjourned until 1 p.m Saturday, December 22, 1973.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 21, 1973:

DEPARTMENT OF JUSTICE

Charles D. Loos, of Indiana, to be U.S. marshal for the southern district of Indiana for the term of 4 years.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

John H. Powell, Jr., of Maryland, to be a Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1978.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Friday, December 21, 1973*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Unto you is born this day in the city of David a Saviour, who is Christ the Lord.—Luke 2: 11.

O God, our Father, who hast brought us once again to the glad season when we commemorate the birth of Jesus Christ, grant that Thy spirit in Him may be the spirit that lives in all our lives. May Thy sustaining presence support us all the day long through these troubled times, keeping our hearts free from the harmful spirit of bitterness and resentment and filled with the happy spirit of faith and good will.

Guide Thou our Nation and the nations of the world into the ways of justice and truth and establish among us all the peace which is the fruit of righteousness and love which is the faith of the believing heart.

Now may the Lord bless us and keep us through all our days and in all our ways.

In the spirit of Him whose birth we celebrate 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 without amendment bills of the House of the following titles:

H.R. 2303. An act to continue mandatory price support for tungnuts only through the 1976 crop;

H.R. 4738. An act to provide for the striking of medals in commemoration of the 100th anniversary of the statehood of Colorado;

H.R. 5760. An act to provide for the striking of medals commemorating the International Exposition on Environment at Spokane, Wash., in 1974;

H.R. 6758. An act to amend chapter 33 of title 28 of the District of Columbia Code, relating to usury, and for other purposes;

H.R. 10806. An act to amend the District of Columbia Minimum Wage Act so as to enable airline employees to exchange days at regular rates of compensation, and for other purposes;

H.R. 11088. An act to provide emergency security assistance authorizations for Israel and Cambodia;

H.R. 11238. An act to amend the act of March 16, 1926 (relating to the Board of Public Welfare in the District of Columbia), to provide for an improved system of adoption of children in the District of Columbia, and for other purposes;

H.J. Res. 858. Joint resolution to provide for the establishment of the Lyndon Baines Johnson Memorial Grove on the Potomac.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11771) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1974, and for other purposes."

The message also announced that the Senate agrees to House amendments to the Senate amendments numbered 38, 53, and 54 to the foregoing bill.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2776. An act to provide for the effective and efficient management of the Nation's energy policies and programs for the duration of the existing energy emergency, and for other purposes.

NATIONAL CENTER ON CHILD ABUSE PREVENTION, IDENTIFICATION, AND TREATMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (S. 1191) to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes, and concur in the Senate amendments to the House amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 15, of the House engrossed amendment, strike out "and".

Page 2, line 18, of the House engrossed amendment, strike out "thereof" and insert "thereof; and".

Page 2, after line 18, of the House engrossed amendment, insert:

(6) make a complete and full study and investigation of the national incidence of child abuse and neglect, including a determination of the extent to which incidents of child abuse and neglect are increasing in number or severity.

Page 3, line 9, of the House engrossed amendment, strike out "section" and insert "subsection".

Page 4, after line 13, of the House engrossed amendment, and insert "Not less than 50 per centum of the funds appropriated under this Act for any fiscal year shall be used only for carrying out the provisions of this subsection.".

Page 4, line 14, of the House engrossed amendment, after "Act" insert "for any fiscal year".

Page 4, line 15, of the House engrossed amendment, strike out [1976].) and insert: not more than 20 per centum".

Page 7, line 6, of the House engrossed amendment, after "in" insert "clauses (B), (C), (E), and (F) of".

Page 7, line 24, of the House engrossed amendment, strike out [1976.] and insert; "1976, and for the succeeding fiscal year".

Page 9, line 9, of the House engrossed amendment, strike out all after "SEC. 7." down to and including "IV" in line 21 and insert "The Secretary shall promulgate regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination between programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.".

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BRADEMAS. Mr. Speaker, this bill is one passed earlier by the House to provide financial assistance for a demonstration program for the prevention, identification, and treatment of child abuse and neglect, to establish a National Center on Child Abuse and Neglect, and for other purposes.

The bill under consideration was approved on December 3 in the House by a vote of 354 to 36, an indication of the broad support for action on a problem that has troubled many people throughout the Nation—the abuse and neglect of children.

Mr. Speaker, let me here take a few minutes to explain the amendments which the Senate passed to the bill approved on December 3 by the House. I should point out that the bill before us today is basically the version of the bill as passed by the House.

The bill before us provides for a 4-year program rather than 3 years as in the House bill.

Second, the bill before us today provides authorizations for fiscal years 1974 through 1977 of, respectively, $15, $20, $25, and $25 million.

In addition, the bill we are today considering provides, as a result of the Sen-